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ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO,
WEDNESDAY,
NOVEMBER 16th, 1949.

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D. - CHAIRMAN

HAROLD ADAMS INNIS - COMMISSIONER

HENRY FORBES ANGUS - COMMISSIONER

- - - - -

G. R. Hunter,
Secretary

P. L. Belcourt,
Asst. Secretary

- - - - -

COUNSEL APPEARING:

F.M.Covert, K.C.	}	Royal Commission on Transportation
G.C.Desmarais, K.C.		
Hugh E. O'Donnell, K.C.	}	Canadian National Railways
H. C. Friel, K.C.		
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I. D. Sinclair		
Wilson E. McLean, K.C.	}	Province of Manitoba
C.D. Shepard		
M.A. MacPherson, K.C.	}	Province of Saskatchewan
J.J. Frawley, K.C.	}	Province of Alberta
C.W. Brazier	}	Province of British Columbia
F.D. Smith, K.C.	}	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade
J. Paul Barry	}	Province of New Brunswick
F.R. Hume	}	Canadian Automotive Trans- portation Association
M.L. Rappoport		
R. Kerr	}	Board of Transport Commissioners
W. E. Darby, K.C.	}	Prince Edward Island

ROYAL COMMISSION ON TRANSPORTATION

Ottawa, Ontario,
Wednesday, November 16, 1949.

MORNING SESSION

R. E. MOFFAT, recalled:
EXAMINATION RESUMED BY MR. SHEPARD:

MR. SHEPARD: Mr. Chairman, when we adjourned yesterday afternoon we had completed Chapter IX. We will now go on with Chapter X which appears starting at Page 125 in the printed submission. It deals with the matter of regional considerations, and I understand, Mr. Moffat, that your intention is to turn first to Page 13 of the mimeographed submission.

THE WITNESS: Yes, in this chapter the proposal is that we should read the conclusions first and then work our way back through the remainder of the chapter. In the middle of Page 13 in Chapter X, the views are summarized.

CHAPTER X - REGIONAL CONSIDERATIONS

The views expressed in this section may be summarized in the following way:

1. We urge that your Commission recommend that immediate and effective action should be taken to eliminate whatever remains of the differential between the rate levels in Eastern and Western Canada.

THE CHAIRMAN: Where do we find that one?

MR. SHEPARD: It is on Page 134 of the printed submission, sir.

THE CHAIRMAN: Yes, I had just been reading Page 7, but you are passing on from that down to your recommendations, is that it?

MR. SHEPARD: Yes, sir. Then we are going to go back and expand the chapter, having submitted the

recommendations first.

THE CHAIRMAN: I see, all right, Mr. Moffat.

THE WITNESS:

1. We urge that your Commission recommend that immediate and effective action should be taken to eliminate whatever remains of the differential between the rate levels in Eastern and Western Canada. The mere narrowing of this differential is not enough. The goal is parity in so far as that can be achieved. That goal has been expressed in many previous judgments of the Board of Transport Commissioners, and in various Orders-in-Council directing previous enquiries. We feel that the goal is now within a reasonable distance of achievement and that there is no longer any justification for the vestige of the differential which remains. Our recommendation in the preceding chapter would, if implemented, go far to removing the differential which still remains.

2. We urge that your Commission recommend that the Board of Transport Commissioners be clothed with the added powers necessary to eliminate any possibility of a regional rate differential appearing again in the future except under the most pressing circumstances.

3. We urge that your Commission recommend that whatever the changes in the rate structure which are made necessary by future developments in the transportation industry, they should not be allowed to result in a situation in which any one region is being penalized in the form of unnecessarily high rates in

order to offset revenue deficiencies elsewhere.

MR. SHEPARD: And then, Mr. Moffat, is it your intention to summarize the first three pages of the chapter in the mimeographed submission and start to read on Page 4 the paragraph in the appendix attached. That appears, Mr. Chairman, at Page 127 of the printed submission, the central paragraph in the page.

THE WITNESS: The first three pages of this chapter give a very brief review of the history of this controversy over the discrimination in the level of rates in the East and the West almost since the beginning of the Board of Transport Commissioners. It points out that the fact that there is a difference between the average level of rates in the two areas has been quite generally accepted, but that there has been very strenuous controversy, first, as to the amount of the differential, and even more strenuous controversy as to whether it is justified or not.

There is a brief quotation from the decision in the 40 per cent Case in 1920, which indicates that at that time the Chief Commissioner of the Board of Transport Commissioners expressed the opinion that the differential between the two areas was somewhat in the nature of 15 to 18 per cent.

It then goes on to indicate the fact that an Exhibit (No.326) was filed in the 30 per cent Case which suggested that the differential at that time was approximately 14 per cent. It goes on to point out that since that time the differential has been reduced rather considerably, partly because of the increases in the competitive rates

which were concentrated much more heavily in Eastern Canada than in the West, partly because the increases on international and related rates have been substantially larger than on domestic rates, and since international and related rates are more important in Eastern Canada the result has been to bring up the level of rates in Eastern Canada by a somewhat larger amount than the average level of rates was raised in Western Canada.

CHAPTER XREGIONAL CONSIDERATIONS

This section of our submission deals with a subject which has been a matter of great concern to the people of Western Canada since before the first World War, namely the discrimination against the West which is reflected in the fact that railway freight rates are higher in Western Canada than they are in Eastern Canada. This subject has been discussed in almost all of the major judgments of the Board of Railway Commissioners since that Board was first established. As has been pointed out in the section above which deals with the principle of the horizontal increase, the practice followed by the Board in the past has been that whenever a general increase in rates was authorized, that increase was greater in the East than in the West, with the objective of reducing the differential under which Western Canada had been placed by the first rate structure which was established. Throughout the whole history of this controversy there has been a general acknowledgment that such a differential existed, i.e., that Western rates were higher than those of the East. It is true that there have always been cases of individual rates in which the opposite situation prevailed, but the general average level of all rates in the West has been consistently higher.

The question of the magnitude of this differential has been a contentious one. An attempt at measuring it appears to have been made in the so-called 40% Case of 1920, in which Chief Commissioner Carvell made the following statement:

"Allowing for the undoubted fact that a very large proportion of the traffic both East and West is on a commodity basis, I am still forced to the conclusion that the rates in Western Canada average considerably greater than in the East, possibly around 15 or 18 per cent."

It is not clear from the context or from any information which is available to us just what method Chief Commissioner Carvell had in mind in making that statement or the route by which he arrived at the figure of 15 or 18%. It is, however, to the best of our knowledge the only figure which had been produced prior to the hearings in the 30% Case. During those hearings, the various railway traffic witnesses were asked by provincial counsel whether they could give any estimate as to the amount by which Western rates exceeded Eastern rates, but the answer was always that no such calculation had been made.

In view of the fact that the railways could give no answer to the question of the extent of the differential, the Province of Manitoba made an effort to estimate the figure by the methods which were available to it. That estimate appeared as Exhibit 326 in the 30% Case. It relied upon C.P.R. data for the year 1946 and upon methods which were being used by the Interstate Commerce Commission of the United States. The conclusion reached in Exhibit 326 was that on the average, rates in Western Canada were higher than rates in Eastern Canada by 14%.

The figure of 14% would have been reduced to 13.3% if grain rates had been excluded. This fact was pointed out in the discussion of Exhibit 326, but

it was felt that since the exclusion of grain resulted in only a slight change in the figure it would be convenient to proceed on the basis of the 14% figure. In the light of changes in grain rates since 1946, however, the situation with respect to grain deserves special consideration in considering rate level comparisons at the present time.

The first chapter of this submission pointed out that the people of Western Canada are concerned with the rates on grain moving from the point of production to the market. Consequently, our interest in those rates is not restricted to that part of the haul which is purely Western. Our interest in the rates on grain from the Bay Ports to Montreal is equally direct and vital. If Eastern rates in general are lower than rates being charged in the West, it is no comfort to us to be told that the situation will be corrected by raising grain rates in the East and holding Western grain rates low. The impact of such a change rests squarely and almost exclusively in the West.

Adjustments of the rates on grain between 1946 and 1948 were made which raised the Eastern portion of the rates by approximately 30% while the Western portion remained unchanged. It is our contention that such an adjustment can in no way be considered as a step toward the equalization of the regional rate levels. It is for this reason that the remainder of this chapter proceeds in disregard of rates on grain, and the comparisons which it contains are based on all traffic other than grain.

It may be pointed out parenthetically that

must therefore be shipped over Eastern lines and charged "eastern rates". These charges are borne by the Western producer in exactly the same way as are the charges on the shipment of grain. They have not been excluded in the comparisons drawn below only because the data available fails to isolate them from the general traffic in the way that grain shipments are isolated.

By excluding grain from the calculations in Exhibit 326 a rate level differential of 13.3 per cent against the West was found to have prevailed. This result was based on the latest data available at the time, which was data pertaining to the calendar year 1946. Since that time there have been considerable rate increases in various categories of traffic, the effect of which was summarized in Exhibit 49 / 134 of the 20 per cent case. That exhibit indicates that rate increases occurring between July 1, 1946, and January 11, 1949, had increased the revenue of the C.P.R. by 27 per cent. A further increase of 3.7 per cent on international and related rates has occurred since that date. The 1948 revenues did not, of course, reflect the full amount of those increases, but since 1948 is the latest year for which complete records are available it is useful to consider the effect of those various increases as reflected in the figures for 1948. The C.P.R. has made available on request, the 1948 data comparable to that which was used in Exhibit 326 for 1946. These figures are shown in Appendix A to this submission. From that data it has been calculated that on the average rates in Western Canada increase by approximately 11 per cent and in Eastern Canada by approximately 19 per cent during the period 1946 to 1948.*

* Appendix C

Grain rates have been excluded from this calculation for the reasons already mentioned. Clearly the effect of the various increases has been to raise rate levels in Eastern Canada to a greater extent than in Western Canada. The explanation lies in the fact that large increases have taken place in international and related rates, which occupy a more prominent place in the total Eastern rate structure, and at the same time the additional 15 per cent increase in competitive rates has had a more concentrated effect in the East because such rates are more numerous, absolutely and relatively, in that region.

At the top of Page 4 then the brief continues as follows: --

In the Appendix attached to this submission will be found a re-calculation of Exhibit 326 on the basis of 1948 data. Its results may be summarized in the statement that on the average, the rates being charged in Western Canada in 1948 exceeded the rates being charged in Eastern Canada, by $6\frac{1}{4}$ per cent. As has already been pointed out, however, there were further rate increases during 1948 and 1949 which will change that result. No precise estimate as to the overall effect of these changes is available, nor will it be possible to make such a calculation until the total results for 1949 have been computed. However, it does seem clear that the differential for 1949 will be somewhat ^{less} than $6\frac{1}{4}$ per cent. At this point it should be made clear that we are not suggesting that this figure represents an exact measure of the rate differential. Rather we advance it as the most reasonable estimate which is available from methods

and data which are available. We strongly urge that your Commission give consideration to this problem of comparing rate levels and that it either develop a method itself or adopt one which it feels to be satisfactory.

MR. SHEPARD: Mr. Moffat, I understand that it is your intention to describe the method which you have followed now and then proceed to explain it by reference to the appendices at the end of the brief.

A. That is correct. I would like to direct attention at this point to the first two pages of the appendix, that is Appendix A, Pages 1 and 2. For the sake of convenience in referring to the transcript, I would suggest that these two pages should be copied into the transcript at this point.

These two pages are a direct copy of material which was supplied to us by the C.P.R. at our request, giving the results of their operation for the year 1948 which are shown on the table. The first page is divided between Eastern lines and Western lines and gives sixteen commodity groups, and for each commodity group it gives the tonnage handled, the revenue secured and the ton-miles that that commodity was moved.

MR. SHEPARD: All for the year 1948?

A. For 1948, in Eastern Canada and separately for Western Canada, and separately for each of the sixteen commodity groups. The second page is a straight calculation from that first page giving the average length of haul and the average revenue per ton for each of the sixteen commodities in Eastern Canada and in Western Canada.

THE CHAIRMAN: Is this page also something that the C.P.R. itself put in shape?

A. Yes, sir, but it is a straight division problem of calculating it from the first one. The first one is the one that really gives the basic data.

(Page 8769 follows)

Before going on to the next appendix I would like to give a simplified illustration of the problem that is involved here, to give some indication of what the method is. The illustration which I propose to use is that of a comparison between the rates charged in western Canada in 1948 for bituminous coal and for grain, taking those figures from page 2 of the appendix.

Bituminous coal, western lines, the average haul in 1948 was 301 miles, and the average revenue per ton was \$2.30. For grain and grain products in western Canada in 1948 the average haul was 561 miles, and the average revenue per ton \$3.09. I think it is clear that the average revenue per ton to the C.P.R. represents the average amount that was paid to the C.P.R. by the shippers for moving that commodity, so that it represents the charges paid by the shippers. The problem then is to reach some conclusion as to whether the bituminous coal rate of \$2.30 for 301 miles is higher or lower or the same as the grain rate of \$3.09 for 561 miles. The problem is to work out some yardstick for comparing the difference in the length of the haul.

The method that has been used is to adopt a calculation which was worked out by the Interstate Commerce Commission in the United States, and to make the calculation on the basis of the class rate structure. If one takes the 10 classes in eastern Canada and the 10 classes in western Canada and adds together those 20 classes for a haul of 301 miles, the average rate is \$16.01 per ton. If one takes the average rate for those same classes for 561 miles, the average rate per ton is \$22.74. A straight calculation from that gives the result that on the average the rate for 561 miles exceeds the rate for 301 miles by 42%, which gives a figure then for compar-

ing the other rates .

In the case of bituminous coal the actual rate for 301 miles was \$2.30. If you raise it by 42% you will get a figure to represent the corresponding rate for 561 miles. Raising the figure of \$2.30 by 42% gives a result of \$3.26; or, stating things in other words, the bituminous coal rate of \$2.30 for 301 miles corresponds to a rate of \$3.26 for 561 miles. A comparison of that with the grain rate then is possible, and it indicates that the grain rate is slightly lower than the bituminous coal rate. The percentage is that the bituminous coal rate exceeds the grain rate by 5.5%.

Now, that is the method that has been applied through the rest of this calculation. As was pointed out in the brief, there is no intention of saying that that is absolutely correct, that it is absolutely the only method of doing it, but it does seem to give the most reasonable method that we have been able to find yet of setting up some method of comparing rates when you have a difference in the length of haul that is involved. That is the method and that is the calculation, and then that has been worked through for the remainder of this appendix.

MR SHEPARD: Q. I understand now, Mr. Moffat, that it is your intention to make reference to Appendix B?

A. Yes.

Q. And it would probably be easier for following in the transcript if it was included now -- that is, four pages of Appendix B.

A. At the very outset here I might draw attention to a typographical error on table 1 of Appenxix B. The item "Dressed Meats and Packing House Products," at the left-hand side, 791, 20.09 and 479 -- that should be

579. It is a straight typographical error. The calculation was based on the right figure, and the result is correct, but that particular figure is a typographical error in both copies.

Now, it seemed to us that there was no particular need to go through this calculation in detail, other than to indicate that it takes that same method which I have just outlined. It works that calculation out, but instead of comparing bituminous coal and grain, the comparison is bituminous coal eastern Canada - bituminous coal western Canada, cement eastern Canada - cement western Canada, taking each commodity group and comparing eastern Canada with western Canada, working out the corresponding rate for the different length of haul, and then calculating the difference between the amount which was actually spent by the shippers to pay for moving these commodities with the amount which they would have spent if the commodity had moved the same distance but at the rate which applied in the other area.

MR EVANS: Q. The rate per ton?

A. Yes, that is correct, the rate per ton.

Q. There is a distinction there?

A. No.

THE CHAIRMAN: What is that question?

MR EVANS: I just said the rate or the rate per ton, and the witness said the rate per ton, and he says there is no distinction between the two.

THE WITNESS: The calculation would be different, but the result will come out exactly the same whether you work rates per ton, rates per ton-mile or rates per any other unit; you will come to the same answer. The calculation of course will be different.

The conclusion is shown on the bottom of table 2,

the figure 107.33%, which is the calculation based on western tonnages and western distances, that the western rates are 7.33% higher than eastern rates. And at the bottom of table 4, 105.15%, which is the calculation based on eastern tonnages and eastern distances, the average of 5.15 and 7.33 is 6.24, or the $6\frac{1}{4}\%$ which was quoted in the brief.

Now, the other two calculations are included in Appendix C. We would like to ask that Appendix C, tables 1, 2, 3 and 4, should be taken into the transcript at this point. These four tables make the same calculation for a comparison of the rates in Western Canada in 1946 and 1948, and, without giving any detail at all, the conclusion is that the rates in western Canada during that period went up by 11%, and that figure appears in the body of the submission.

Then Appendix C, the last four tables, tables 5, 6, 7 and 8, we would ask that they should go into the transcript at this point. They are the calculation of the rate increase between 1946 and 1948 in eastern Canada. They show an average increase of 19%, which also appears in the body of the submission.

Then one final table, Appendix D, deals with the grain rate in eastern Canada, indicating that that rate is up approximately 30% between 1946 and 1948, and that figure also appears in the body of the submission in one of the sections which I did not read.

Q. Now, Mr. Moffat, that completes your explanation of the appendices. Would you turn back to page 4 of Chapter X, to the heading, "Danger that the Differential will be Greater in the Future."

MR EVANS: Before my friend proceeds, I am just wondering whether my friend would not consent to have

these tables put in as an exhibit. I am thinking of the difficulty of getting the transcript at night. I did not get the transcript of yesterday's proceedings until this morning, and if these tables have to be copied into the transcript it will certainly make it quite impossible to have the usual delivery the night before.

MR SHEPARD: I do not think that is so, Mr. Chairman, because I have already discussed the matter with the reporting staff, and I think some of them are already ready to run. I do not think it will hold up the transcript because of these appendices.

MR COVERT: Mr. Belcourt I think perhaps can tell us.

THE ASSISTANT SECRETARY: I have just been speaking to the superintendent of the reporting staff, and she advises me that she is going to have great trouble getting them done in order to have the transcript ready for tonight.

THE CHAIRMAN: Well, there cannot be any objection to these pages being made exhibits, can there, Mr. Shepard?

MR SHEPARD: No, I do not think there is, Mr. Chairman, except that the transcript in itself will then be incomplete, and we felt that it was desirable from the standpoint of the record to have the sections of the appendices appear where we comment on them in our evidence. Otherwise you are going to have to rely on keeping track of some separate sheets of paper that are not included in the transcript.

THE CHAIRMAN: Yes, but I do not think you will find it very hard to keep track of those pieces of paper. They are referred to prominently in your brief, and they are given an exhibit number. I do not see the difficulty.

MR SHEPARD: Well, that is the only objection we had, sir.

THE CHAIRMAN: Have you looked into this, Mr. Covert?

MR COVERT: I have discussed it with Mr. Belcourt, Mr. Chairman, and I follow Mr. Shepard's desire, because it just means you follow down the evidence and you turn to the page and there is the schedule.

THE CHAIRMAN: Oh, yes, of course, that would be the more perfect method.

MR COVERT: But Mr. Belcourt does tell me that it will probably hold up or delay the transcript. Now, we could perhaps meet them both by having them proceed with the transcript except the schedules, and have those inserted later.

THE CHAIRMAN: Yes, that could be done.

THE ASSISTANT SECRETARY: Not if the transcripts are bound, sir; then they cannot be inserted in the transcripts, once the transcripts are bound up and issued.

MR SHEPARD: I think, Mr. Chairman, it would perhaps serve our purpose if they were run off through Mr. Belcourt's good offices and just distributed. We could probably keep them inside the folder or insert them ourselves.

MR O'DONNELL: Having all the appendices as one exhibit would be the more practical way.

THE CHAIRMAN: I beg your pardon, Mr. O'Donnell?

MR O'DONNELL: I suggest that having all the appendices as one exhibit would be a more practical way.

THE WITNESS: They are already available, of course, in the submission itself.

THE CHAIRMAN: That is what strikes me; here

they are all set out in this book, and if you do make them exhibits, that does not harm anybody.

MR SHEPARD: No; I agree, sir.

THE CHAIRMAN: I do not see the difficulty at all.

MR SHEPARD: It was just as a matter of convenience, if you were following through the transcript, of having them right there.

THE CHAIRMAN: Whereas if there are difficulties in putting them into the transcription, those difficulties should be gotten over if possible. Mr. Belcourt says that there are difficulties in getting them into the transcription.

THE ASSISTANT SECRETARY: Yes, sir.

THE CHAIRMAN: Surely we have them abundantly here in the brief itself, if made exhibits. Don't you think so, Mr. Shepard?

MR SHEPARD: Yes, I think that is all right.

MR COVERT: Then the tables will be Exhibit 119, as follows: Appendix A, pages 1 and 2; Appendix B, tables 1, 2, 3 and 4; Appendix C, tables 1, 2, 3, 4, 5, 6, 7 and 8; and Appendix D, one page.

---EXHIBIT No.119: Appendices to "Manitoba's Submissions to the Royal Commission on Transportation" as follows:
Appendix A, pp. 1 and 2.
Appendix B, Tables 1, 2, 3, 4,
Appendix C, tables 1, 2, 3, 4,
5, 6, 7 and 8.
Appendix D (one page).

(Page 8778 follows)

THE CHAIRMAN: Very well, Mr. Shepard.

MR. SHEPARD: Now Mr. Moffat, turning to the heading that I referred to previously, would you continue with the submission? I understand you intend to read that section?

A. To start the context here, the preceding paragraph which I had just read before I gave the explanation of the method, had come to the conclusion that the differential between the East and the West had been reduced to $6\frac{1}{4}\%$ by 1948 and that it would probably be smaller than that again in 1949. And then, continuing to read at the bottom of page 4.

Danger that Differential Will be Greater in the Future

It should be emphasized that the reduction in the differential between the Eastern and the Western rate levels during the last three years was not brought about by any action either by the Board of Transport Commissioners or the railways, designed to reduce those differentials. Rather, it has been brought about by the fact that international and related rates have been increased in line with substantial increases in the United States, and because the railways, in their search for more revenue, raised competitive rates by 15%. Because these three groups of rates are more concentrated in the East, the effect has been to raise the Eastern average by a larger amount than was the case in the West. We would point out, however, that in their second application for a 20% increase in freight rates, the railways proposed to deliberately re-establish a substantial part of this differential by requesting a 20% increase in freight rates other than competitive rates, the latter being restricted to a proposed 5% increase. The very nature of this application provides ample proof that there is

no adequate protection against the re-appearance of the differential in the future and illustrates clearly the need for a more vigorous supervision over matters of this type by the Board of Transport Commissioners. If, in spite of all the efforts to wipe out the differential between the two major rate areas of Canada, and in spite of Government directives urging a condition of rate equality, the railways still find it expedient to follow a course which increases the differential, then we feel justified in making the submission that a strengthening in the machinery of rate regulation will be necessary to achieve the result of regional equality.

THE CHAIRMAN: Can you tell us what you mean by "strengthening the machinery"?

A. Well, almost the entire remainder of this paragraph, or rather, chapter is directed to what we think will be necessary to prevent the re-appearance of a differential of this sort in the future.

Q. By amendment of the Act? The Board has power now to bring in the equality, hasn't it, according to the present Act, and moreover has been directed to do so?

A. That is one of these questions that leads to the same discussion we had yesterday.

Q. Perhaps you will have something to suggest later on, which will facilitate the equalization but you call it "a strengthening of the machinery".

A. In urging a more effective control of railway freight rates as a means of achieving and maintaining an approximation to ^{regional} equality, we are not unmindful of the fact that the rate structure must be adjustable to some extent at least, if it is to be useful to the railways in meeting the changing transportation problems with which they are faced. Of particular importance is the

need to meet competition from other carriers on a sensible basis. The Manitoba Government is appreciative of the realities of this situation and does not wish to tie the hands of railway management in this regard. In taking this attitude, however, we do not acknowledge the legitimacy of all those substandard rates which existed in such large numbers in Eastern Canada until recently, and which accounted for much of the rate level differential (you will notice the words "much of" instead of just "for") the very fact that they could be raised on as broad a basis as a general 15% increase in competitive rates, over and above a general 21% increase only five months before, suggests to us that there must have been many unnecessarily low rates in existence before the increase. A closer and more careful check over the introduction of substandard rates as suggested in the chapter entitled "Characteristics of the Overall Rate Structure", would have prevented many of those rates from being introduced in the first instance, and would have brought about increases in others as the strength of the competitive forces diminished and as railway out-of-pocket costs increased. The important point is that the heavy concentration of competitive rates in the East, the raising of which was sponsible for the reduction in the rate level differential, should not have been there to the same extent in the first place.

MR. SHEPARD: Then the next heading, Mr. Moffat "Competition as an Explanation of Regional Differentials" is quite a brief one and I understand you intend to read that.

THE CHAIRMAN: Pardon me. Do you intend later on to suggest means whereby these unnecessarily low rates you refer to, competitive rates, be made impossible in the future?

A. No, the point is discussed at some length. Briefly it is this, not that they should not be allowed to put in competitive rates, but that there should be a closer supervision

over competitive rates and an application of the principles which were discussed in the chapter which was read yesterday as to a decision whether or not a particular discrimination below the normal rate level was necessary. And then the second suggestion is that if, having applied those tests, it is still found that there are a substantially larger number of such competitive rates in one area than there are in another area, that that fact should be taken into account and that the level of rates in the area which does not have the benefit of the low rates, should be set according to the cost of operation in that area, and should pay its own way but should not be called upon to pay any more than its own operating costs by way of a subsidy to the other areas.

Q. But is it not necessary to the use of any rate that can be set, that it should produce revenue? I mean for your purposes. You want revenue produced by the railways elsewhere so as to lessen the differential which you say you have to face because they are not getting sufficient revenue. Isn't that right?

A. I am afraid I don't follow you.

Q. Well, if you say the railways must give up competition and abandon the attempt to get certain traffic, well they won't be getting any revenue there, will they?

A. There is no suggestion that they should abandon any significant amount of traffic which must produce revenue.

Q. They must produce revenue; otherwise you do not achieve your object, do you?

A. The criteria as suggested by Mr. Walker and adopted by us is that they must produce more revenue than they would save in expenses if they dropped the traffic.

Q. What you say is that these competitive rates will vary against Western Canada, isn't it?

A. Yes.

Q. Therefore you want them to go up?

A. Yes.

Q. But if they go up too high with nobody using the traffic, then there will be no revenue?

A. Yes,

Q. You want them to go high enough for the railways still to retain the business?

A. That is correct, yes.

COMMISSIONER ANGUS: When you said these rates were unnecessarily low in the first instance, is that in addition to saying that they were unnecessarily low after an increase in costs to the railways and to their competitors? That is what we were told yesterday, wasn't it, that these rates after the increases in costs were unnecessarily low and are you now supplementing that by saying they were unnecessarily low when first established?

A. In some cases, yes.

THE CHAIRMAN: That is the railways could have had the traffic without making their rates so low?

A. In some cases it seems to us, yes.

MR. O'DONNELL: Have you listed those cases?

A. No, no one from the outside can list those individual cases no.

MR. EVANS: How do you know they exist then?

THE CHAIRMAN: Who would you bring to judge them?

A. Well, the one really -

Q. I suppose you would compare the rates of the trucks and the railways and then point out that the railways ought to have had this traffic even if they were charging more than they were charging?

A. That is one of the yardsticks, yes.

Q. Do you do that?

A. No, we have not applied it in those terms. The yardstick we have been applying here has been that of the total return from the whole region, and it is clear from those figures that taking the Eastern Region as a whole, they have not been doing nearly as well as they have been doing in the West. At the same time, the railways and the Board of Transport Commissioners have said that even the total overall result was not satisfactory. Consequently, if the Eastern region is doing less than the West it follows that the Eastern region must have been securing revenue less than it should have been securing.

COMMISSIONER ANGUS: My difficulty is that you seem to me to be accusing the railway particularly of not collecting revenue which it might have had for the asking, and to being in that extent not efficient and at the same time stating that private enterprise is efficient. . Now can you have it both ways?

A. Yes, but you may have some inefficiency in there and still have a road which is a very useful and important element of competition, but it does not have to be perfect in every respect.

Q. Well that does raise the other question. If you are going to deal with it subsequently, don't interrupt now. What is the field for competition? In what phase do you think the public is getting value from competition between the two railways?

A. Well, you have the question of the standard of service that is being directed in the way of convenience to the public, that kind of thing, but aside from the cutting of rates -

Q. But you have asked to stop the railways from providing too good a service?

A. No, there is no suggestion that it should be stopped from providing too good a service. There is the suggestion that rates should not automatically be raised to provide a high standard of service, simply because the railways ask for a higher standard of service. But they should not necessarily be stopped from putting the standard in if they are so inclined. I think I cannot give you any answer beyond what I did yesterday, which was to go back and read the sentence in the end of Chapter 1.

Q. Well the sentence, as I remember it, was to the effect that you thought competition was important.

A. "Administrative efficiency, operating efficiency, and service to the public".

THE CHAIRMAN: To get back to this matter of competitive rates, you do not urge that competitive rates be abolished entirely?

A. No.

Q. Well, wherever where they do exist, do they not necessarily bring about lower rates in the regions where there is competition than those which exist in regions where there is no competition?

A. That is correct, yes.

Q. You face that fact?

A. Yes.

Q. And then you say they should be no lower than is necessary for the railway to retain the traffic?

A. That is right, and no lower than sufficient to return their out-of-pocket expenses. The two criteria -

Q. Well, if they don't retain the traffic they won't have to carry it?

A. Yes.

Q. Unless they can make these competitive rates up, they should abandon the competition?

A. That is implicit in the whole thing.

Q. But it does not necessarily evolve that that would bring freight rates down in other parts of the country?

A. Yes, if it is at the place where they are losing more money than they are getting in; then there losses would be reduced.

(Page 8786 follows)

MR. SHEPARD: Will you continue, Mr. Moffat?

A. Competition as an Explanation of
Regional Differentials

Although it is our view that the importance of competition as an explanation of and justification for the low eastern rates has been more than slightly exaggerated in the past, there is no denying that competitive transport facilities are more significant in the general field of transportation in the east than they are in the west. However, the difference is probably not as broad as the many statements which have been made on that question might lead one to believe. Particularly with respect to trucking operations, which offer the most widespread competition to the railways, it would be well to state clearly the nature of the regional difference.

There is no denying that more trucks operate and carry more traffic in eastern Canada. At the same time our knowledge of the situation leads us to suggest that where hauls of any particular commodity for any particular distance are concerned, the competitive situation is so nearly the same as to provide little justification for rates disparities. In considering, for example, short distance shipments of the type of commodity which is most suited to truck transport, e.g. livestock, packaged goods, milk, cream, etc., the element of truck competition is strong in all parts of the country. It is doubtful that in the case of a short haul out of Winnipeg, for example, in this type of commodity, truck competition is any less important than it is for a similar haul out of Toronto. Trucks are used to move the same general groups of commodities over roughly equal distances in the west as in the east. The important difference between the two regions lies

in the fact that a greater proportion of the total eastern traffic is of the sort which tends to move by truck. This being the case, it is understandable that the effect of truck competition may be more important in the east but it does not follow that for any particular commodity for any particular distance the rate in the east should be lower than in the west.

MR. SHEPARD: The next section, Mr. Moffat, headed, "Regional Profitability in the Past", I understand you intend to summarize the first part of it, and then read the last two paragraphs. Would you proceed to deal with that, please?

A. The table on page 7 gives the history of the profitability in the two parts of Canada. The dividing point is the head of the lakes at Fort William. It is perfectly clear from that table that western Canada in every single year has provided considerably more net revenue to the C.P.R. than eastern Canada.

Q. Mr. Moffat, just before you go on, I see that the million dollars figures are omitted in that table.

A. Yes, those figures are millions of dollars. The heading does not show it, although it goes on to talk about them as being figures for millions of dollars. The results during the last ten years for which figures are available are then summarized on the top of page 9. If attention is first directed to the centre column, working expenses in the two areas --

THE CHAIRMAN: Where is that?

MR. SHEPARD: That is the table on page 131, Mr. Chairman.

THE CHAIRMAN: Yes.

THE WITNESS: The working expenses in the two years were almost exactly equal, but the revenue in the

west is considerably larger than in the east, with the result that the net earnings in the west are approximately double what they were in the east on the average over that ten-year period which are the latest figures that have been made available.

Regional Profitability in the Past

In the past therefore, and to a lesser extent at the present time, rate levels in western Canada have been higher than rate levels in eastern Canada. The remainder of this chapter is directed to a consideration of the revenue derived by the railway from these unequal rate levels and to the costs which the railway has paid out to perform the service for which these rates are paid. In other words, we wish to discuss the regional aspects of gross revenue, operating expenses and net revenue.

The people of the prairies have, for many years, held the view that the discrimination against them was particularly unjust because it consisted not only of freight rates at levels higher than those in the east but because those higher rates were applied in an area where the costs of providing railway service were low. The result of this combination of high rates and low costs has been that railway earnings in western Canada have always been much greater than in eastern Canada.

From exhibits in the various rate cases, it is possible to make the following comparison of net revenue to the C.P.R. in eastern Canada and in western Canada. (1)

- (1) Exhibits 118 and 127 - 1927 Freight Rate Investigation;
Exhibit 131 - 30% Case.

<u>Year</u>	<u>C.P.R. Net Revenue East</u>	<u>C.P.R. Net Revenue West</u>
1916	17.1	36.3
1917	15.2	33.9
1918	14.1	23.6
1919	13.5	22.7
1920	10.7	28.3
1921	9.0	27.8
1922	12.2	26.2
1923	12.8	24.4
1924	12.6	22.6
1925	13.8	27.9
(Figures for years 1926-35 not available)		
1936	5.8	17.5
1937	10.0	13.7
1938	3.3	17.4
1939	5.9	22.6
1940	14.1	21.6
1941	16.9	29.0
1942	20.9	27.3
1943	19.5	29.7
1944	11.5	31.6
1945	13.1	22.9

Unfortunately no data has been provided for the years since 1945 except that which was shown in Exhibit 94 in the Mountain Differential case for the twelve months ending October 31, 1948. From that Exhibit it can be calculated that net revenue in the west was \$13.4 million, and net revenue in the east \$12.9 million.

It is clear from this table that over the period for which figures are available the C.P.R. has shown earnings in the west which have been approximately

twice as great as its earnings in the east. In other words in the twenty years for which figures are available the practical effect is this: The total revenue collected in western Canada exceeded total operating expenses in western Canada by \$507.0 million, while the excess of revenue collected over operating expenses in eastern Canada was only \$252.0 million. These figures represent the cumulative dollar totals involved. They reflect the over-all results of differences in rate levels, differences in operating costs, differences in traffic density, differences in the character of the commodities hauled and of all other differences which existed between the two areas in those years.

It is common knowledge that the C.P.R. has considerably more miles of track in the west than in the east. In fact the relationship between miles of track in the two areas is very close to the relationship between dollar profits. In other words the profits per mile of track have been approximately equal on the average over the period. But dollars earned per mile of track is not a significant figure. Two other figures would be much more enlightening, namely, earnings per dollar spent in operating the system and earnings per dollar invested in the system.

The relationship between earnings in the two regions and operating expenses in the two regions was set out in Exhibit 340 in the 30% Case. That exhibit can be summarized thus in terms of annual averages for the 10 year period 1936-1945 inclusive:

	<u>Gross Earnings</u> (\$ million)	<u>Working Expenses</u> (\$ million)	<u>Net Earnings</u> (\$ million)
Lines East	102.5	90.4	12.1
Lines West	113.3	90.0	23.3

It is clear from these figures that working expenses on eastern lines and on western lines were almost identical with an average of just over \$90 million per year in each region for the period covered. But whereas an expenditure of \$90 million produced an average net earning of \$23.3 million in western Canada, an expenditure of \$90 million produced an average net earning of only \$12.1 million in eastern Canada. Putting this fact in another form it is this: For the same expenditure of money the C.P.R. over the 10 years, 1936-1945, was able to earn \$233 million in western Canada and only \$121 million in eastern Canada. In our view the important comparisons are these and their significance is in no way reduced by the fact that for the same outlay in working expenses a larger mileage of track was operated in the west.

Even a casual observer can be sure that the cost of construction per mile of track is much lower on the average in the Prairie area than in any other area. It is true of course that construction costs from Winnipeg to the lakehead were much higher but the great bulk of the western mileage of C.P.R. is in the low cost prairie area. Consequently it seems clear that the proportion of C.P.R. investment in the Prairies must be much lower than the proportion of its total track mileage. No figures have been produced by the railways, however, to show any breakdown of investment between the east and the west. Consequently it is not possible to present any figures showing the relationship between earnings in the two regions and investment in the two regions.

COMMISSIONER INNIS: How do you reach a division between the net revenue in the west and net revenue in the east? That is to say, any shipments of grain which are carried straight through to the east, are they included in the revenue in the west?

A. The method of calculation which is a C.P.R. calculation which appears in one of the exhibits, is basically this. In the case of revenue, wherever the shipment originates and terminates within the west you take the double revenue; wherever it originates and terminates in the east you take that double revenue. Where the haul goes through from east to west the revenue is divided in proportion to the mileage. In the case of expenses there is somewhat the same pattern except that there are more complicated allocation factors, basic parts of expenses, which are partly attributable to one year and partly to the other. It is a cost accountant's field day in some respects, and not nearly so tough when you are dividing into only two regions as it is when you begin to go into any more detail in it.

MR. O'DONNELL: What allowance is made for the fact that the C.P.R. mileage is about two-thirds --

A. That is covered in the next two paragraphs below that table. There was some anticipation of that question in the next paragraph beginning, "It is clear from these figures. . ."

MR. SHEPARD: Now turn to the next heading, Mr. Moffat, the section dealing with "Regional Profitability Now". Would you cover that, please?

A. Regional Profitability Now

As has been pointed out, the freight rate adjustments of the last few years have had the effect

of reducing the disparity between eastern and western rate levels. Consequently, one of the factors making for unequal earnings has been reduced in importance but the difference in operating cost factors remains as it was. The total effect has been a material lessening in the discrimination against western Canada although no figures are available to show the situation in 1948.

I might say there is a reference to an exhibit on a partial year basis which was given in the Mountain Differential Case at the top of page 8 of this chapter, but no figures are available on a complete year basis for anything beyond 1945.

It therefore appears to us that the present position as to the over-all level of rates in the east and the west and as to the over-all level of earnings in the two areas is significantly improved as compared to the situation in the past. We do feel, however, that there are still certain particular matters on which action should be taken to eliminate inequalities which are important in particular categories. We have in mind here the items mentioned in the chapter entitled, "Characteristics of the Overall Rate Structure."

THE CHAIRMAN: Is that a chapter that comes later on?

A. No, it is the chapter immediately preceding. The items mentioned are the standardization of class rates, standardization of the distributing and town tariffs with the class rates and a more complete control over competitive rates.

MR. SHEPARD: Now the next section, Mr. Moffat, deals with "Regional Profitability in the Future".

THE CHAIRMAN: I beg your pardon?

MR. SHEPARD: The next section is "Regional Profitability in the Future", and it is Mr. Moffat's

intention to read that.

THE WITNESS:

Regional Profitability in the Future

Changes in the freight rate structure may become necessary in the future, whether for reasons of changed financial need of the railways or of a reappearance of the play of competitive forces in those areas in which they have been most effective in the past and these future developments may be of such a nature that the former inequalities may reassert themselves. It therefore seems advisable to consider the policy to be adopted if that situation threatens.

Just as it is proper for the country as a whole to provide sufficient revenues to allow the railways to perform their functions, but no more, so in our view it is proper that each of the major regions of the country should pay for the services which the railways provide for that region, but no more. There is no denying that a complete separation of costs and of revenues on a regional basis cannot be made with perfect accuracy. However, an approximation arrived at by the use of generally accepted techniques of cost accounting will serve the purpose. Having done this, the test of regional profitability may then properly be applied to the problem of determining just how much of the cost of operating the national transportation system any particular region should be called upon to pay. It provides an upper limit to the level of rates to be charged in any region, that limit being the rate level necessary to produce sufficient revenue to the railway to pay for the cost of its operations in that region.

It is our view that the implementation of the suggestions outlined in the chapter entitled

"Characteristics of the Over-all Rate Structure", particularly the standardization of class rates and the application of regular tests to other rates would prevent the introduction of unjustifiable differentials in rate levels. Nevertheless, a further growth of competitive factors in those areas where competition is already important might mean that even within the above criteria the general level of rates would decline significantly in one area with the result that revenues in that area would not cover the cost of providing service in that area.

In the past such a situation was met by keeping rates so high in the west that in fact the west paid its own operating costs and provided a considerable amount in addition which was available to meet expenses for which the east was not paying its proper share. It is the view of the Manitoba Government that this situation should never be allowed to occur again. We are prepared to pay a level of freight rates in western Canada sufficiently high to cover the cost of railway service in the west. We are not prepared to pay a level of freight rates which provides a form of subsidy to the east in addition.

It is for that reason that we feel that your Commission should recommend that regular studies should be undertaken to keep the Board fully informed as to railway profits in each of the major regions of Canada and that the Board should never call upon one region to pay freight rates to be used to subsidize lower rates in another area.

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THE CHAIRMAN: Pardon me a moment. So you would have the country divided into two regions only?

A. Two regions is the suggestion here, yes.

Q. Where would the dividing line be?

A. That is a question of more or less. The present dividing line is Fort William because that is the way accounts are kept. There might be an argument for pushing it a little further east; there might be an argument for pushing it as far as Sudbury or a little beyond that. We are not proposing any particular place that the division should be made other than that it should be somewhere in that area there which geographically divides the country so completely.

THE CHAIRMAN: All right.

A. The Manitoba Government takes the firm position that if the railways' revenue requirements are such that they require further rate increases in the future, those increases should not be applied in any region in which satisfactory profits are already being earned. There is no good reason why freight payers in one region should be penalized by higher rates in order that unfavourable railway operations elsewhere be offset. If additional revenues are required to cover operations in one area, and if the competitive aspects of the transportation industry are such that added funds cannot be raised through higher rates in that area, then the Government of Canada must decide whether it is in the national interest to maintain our railways on the present scale in that area. Should the decision be an affirmative one then the responsibility for implementing it is a national responsibility and should be met out of the national treasury.

In advocating the use of subsidies in this way

we do not wish to leave the impression that we consider subsidies to be a fundamental answer to the problem of meeting the cost of railway operations in Canada. In this particular context, however, we feel that subsidies may be the only way of avoiding a situation in which the region least adequately provided with transportation facilities and at the same time most heavily dependent upon them is called upon to subsidize indirectly through the freight rate structure the region which is most amply provided with such facilities. Furthermore, we do not feel that subsidies are necessary even for this limited purpose at the present time. It is our view that under present conditions it is quite possible for the railway to raise their rates in eastern Canada to a level which will yield sufficient revenue to pay for the services provided there. But our fear is that at some time in the future this may not be possible, and our suggestion is that a subsidy to the eastern operations should be considered at that time in preference to an effort to raise western rates to provide the additional funds.

MR. SHEPARD: That brings you to the point, Mr. Moffat, where some summary of the views in the chapter is expressed, and you have already read those. Would you turn to Chapter XI?

COMMISSIONER INNIS: You think this touching faith in accountants is firmly justified?

A. Well, it is justified, I would say, to this extent, that somebody, whether it be accountants or somebody else, has to reach a decision as to how much money the railways are going to be given, and when that decision is reached --

THE CHAIRMAN: How much they are going to be given?

A. How much they are going to be allowed to collect rather than given. Whatever criteria are available and are used to reach that decision could be applied just as effectively to one region or the other, provided they are big regions. Once you get into ~~smaller freight~~ smaller breakdowns there are all kinds of difficulties, but on one simple division in the middle of a country this size, the difficulties do not seem to be much greater than the difficulties in the first calculation which have to be solved in one form or another.

COMMISSIONER ANGUS: Do you think that equalization in the sense in which you have been describing it is the type of equalization that the Board has been directed to aim at establishing?

A. Has been directed to, or interprets its directions. I think there is possibly a slight difference of meaning there, that the Government in directing it may have one thing in mind and the Board when interpreting its power and its statutory authority in the light of its past decisions may have a slightly different interpretation of what constitutes equality.

THE CHAIRMAN: I thought that was covered.

A. Well, what we are advocating here is that the Act should be clarified on that point.

Q. I mean, arriving at what is meant by equality.

A. Under the present Act --

Q. Section 314 uses the word "equality", and the Board has been directed to make that Act effective if it is not already effective, but the past decisions of the Board have been directed primarily to the individual commodity or an individual group of commodities rather than to such a thing as standardizing class rates of eastern Canada and western Canada and class rates of western Canada

A. But the past decisions of the Board have been directed primarily to the individual commodity or an individual group of commodities rather than to such a thing as standardizing class rates of eastern Canada and western Canada class rates of western Canada.

Q. No, but the present commitment is to erect a structure, a reasonable structure, not too high nor too low, but anyhow a reasonable structure in every respect which will produce equality.

A. Yes, but, sir, they were directed to do exactly that same thing twenty some years ago, and the present structure is the result.

Q. You say that they failed to do it, in your opinion, twenty years ago?

A. Yes, the present structure is what they found twenty years ago to be equality.

Q. I beg your pardon?

A. Twenty years ago they found that the present structure was equality within their meaning of the term.

MR. SHEPARD: Returning, Mr. Moffat, to Chapter XI, that deals with the administrative organization for Board purposes.

THE WITNESS:

CHAPTER XI

Administrative Organization for Board Purposes

This outline of the views of the Manitoba Government on the many questions associated with the public regulation of Canadian railways would not be complete unless it also gave attention to the administrative organization which would be required to carry out that regulation. At several points in the preceding chapters of this submission we have referred to

administrative considerations in relation to the particular matter under discussion at the time. In this present chapter we deal with administrative organization on a broader basis, with the accounting and statistical records which will be necessary if the Board is to be able to administer the policies we have advocated and with the steps which might be taken to simplify and clarify the freight rate tariffs in order that the public generally might be better able to understand them and their implications.

Board Staff

Our first submission is that the Board should equip itself with a sufficient staff of experts in the various fields so that it can have access to highly qualified technical advice from persons who are not connected with the railways or any other interested party. We do not mean by this that the Board should necessarily have a numerous staff. A relatively small staff of highly qualified individuals and a practice of seeking outside independent professional advice would, in our view, be preferable to an attempt to build up a large permanent staff. The numbers and qualifications of the persons in these categories would depend upon the frequency with which major rate cases occur in the future and upon the experience gained in dealing with them. For those reasons we do not feel that it would be useful to attempt to anticipate personnel requirements in advance. It is our view that your recommendation on this matter should be that the Board should equip itself with a sufficient staff of experts and consultants in the various aspects of its work. This staff should, in our view, be considerably stronger than that which has been available to the Board in

the past and it should consist, to a greater extent, of persons qualified in financial and economic matters and in the use and availability of information concerning developments outside the field of railway transportation itself. In the past the Board's staff has been fully occupied with safety regulations and operating matters and with the filing and recording of tariff supplements. It is our view that in the future the staff organization should be altered to place much greater emphasis upon those aspects of railway regulation which have received attention in this submission.

MR. SHEPARD: Now the next section deals with "Simplification of Rates and Tariffs", and I understand that you intend to summarize the first two pages of that section in the mimeographed brief.

A. The first two pages of this section point out a fact which was fairly obvious at several of the regional hearings and which certainly became clear in the Winnipeg regional hearing which was the one that I personally attended. That is, the virtual impossibility for any outsider who is not a freight traffic specialist to understand freight tariffs and discover for himself what the rate is on any particular commodity. The result is that the larger shippers with experienced staff are in a position to take advantage of the most favourable rates which are available to them; whereas the casual shipper or the shipper who is only moving a small volume of traffic finds that he is almost forced to take the first rate which is named to him.

Now, there is no suggestion, as is pointed out in here, that he is charged an improper rate, but there may be two, three or four different routings

or different ways of calculating the rate. If he spends the time and the money to build up a specialist staff, if his organization is big enough, he can get a lower rate than would be likely to be charged him if he just operates on a casual shipment basis.

Simplification of Rates and Tariffs

One matter to which the Manitoba Government would like to direct the attention of your Commission, is that of the need for simplification of Canadian freight rates and of the tariffs in which those rates are set out. For the great majority of the people of Canada, the only direct contact with this question comes to them if they attempt to discover the charges which they must pay to ship a given commodity from one point to another. Even the most casual acquaintance with railway freight tariffs, will convince the average individual that it is virtually impossible for any outsider to read and understand these tariffs and to discover for himself what the charge would be for any particular shipment. The result of this situation is that the larger shippers with experienced staff of traffic specialists, are in a position to take advantage of any special concession which may be included in the tariffs, whereas the casual shipper, or the shipper who moves only a relatively small volume of traffic, is quite unable to do anything except pay the charges which are asked by the particular freight agent whom he happens to be dealing with.

Under these circumstances, in the great majority of cases, it is probable that the rate which

will be quoted will be the first rate which is discovered for the particular haul concerned, and that in many cases that rate will be higher than the rate which would be charged if a more careful study were undertaken. There is no suggestion here that the rate which would be quoted would be an unauthorized one or one which is improper in any way. Rather, the suggestion is that since in many cases there is a choice of a different routing or of a different combination of rates, a careful study of the situation would bring out the fact that there are several possible rates, all of which are perfectly proper and all of which have been authorized. We might point out that there are, in all the larger shipping centres, firms and individuals whose regular source of income is derived from freight bill audits under arrangements in which they study the freight bills paid by firms and are paid a certain percentage of any refunds or savings they discover by reason of the fact that there was available a rate lower than the one which was charged.

In the case of larger shippers who are moving a relatively ^{large}/volume of traffic, the practice has grown up, of retaining a person who becomes a specialist in these matters, and who devotes the great bulk of his time, if not all his time, to working out alternative routings and alternative methods of calculating rates for the purpose of securing for his company the lowest rates possible. The fact that such rate specialists are used by so many of the larger firms is, in itself, proof that in the opinion of the management of those firms, the savings

which are made in that way are considerably greater than the cost of the salary and other expenses involved in retaining such a person on the staff. The implication therefore, is that the smaller firms, who do not have the use of such specialists, must be paying rates, which, in total, are higher than they would otherwise have to pay if they fully understood the various alternatives which are open to them.

The result of this is that if a shipper wishes to get the advantage of the lower freight rates to which he is entitled he must pay those rates and, in addition, he must pay the salary and expenses of a freight expert to maintain this constant study of freight tariffs and the various alternatives which they offer. This situation, therefore, means that the small shipper faces an important competitive disadvantage as compared with the larger shipper who can pay for such work. Our basic objective in asking for a simplification of freight rates and rate tariffs is the elimination of conditions of this sort.

In addition to the unsatisfactory situation which exists in respect to the day by day operations of freight rates as paid by shippers, there is the effect upon investigations by the Board of Transport Commissioners, or by Commissions similar to the present one, in which interest is directed toward a study of the relationship between rates charged in different areas, or for different commodities. The complications of the present rate structure and the rate tariffs, make such comparisons virtually impossible. We are not merely saying that it would be more convenient and make possible a more conclusive statistical study, if the rate structure were simplified, rather, the

point is that under the present system it is impossible to discover what the rate really is on the various hauls and for the various commodities. Any person who quotes such a rate, runs the risk that the railway traffic specialist will find that he has used a wrong rate and that the comparison which he is offering is invalid. The result is that no one can prepare any satisfactory analysis of rate relationships and no one is able to state what the relationship is.

Evidence offered by a number of witnesses at various regional hearings clearly establishes the fact that even the highly experienced traffic experts are very cautious in stating the rates which apply on a particular commodity. In a considerable number of cases, highly qualified traffic experts presented evidence in which they quoted particular rates and were then forced to correct those rates and to quote different rates, after the railway traffic experts had had an opportunity to study the brief and to work out other possible routings to show what lower rates could be secured in that way. If this situation exists with the type of individual who is willing to appear before a Royal Commission and to do the preparation necessary for that purpose, it seems clear that the smaller shipper, carrying on his regular business, will find that it is completely beyond his power to attempt to deal with the problem, and the result will be that he will accept the charges quoted by the first railway agent, even though subsequent studies might prove that a lower rate existed.

THE CHAIRMAN: How are you going to run a staff and provide these means for these small shippers?

A. The remainder of this section has a few suggestions as to how that could be done.

MR. SHEPARD: I understand you are now going on to page 4, the last paragraph starting on that page. Mr. Chairman, it is at the bottom of Page 137.

THE WITNESS: The objective of the Manitoba Government, in suggesting that your Commission should recommend simplification of freight rates and freight tariffs, is the elimination of the time and expense which is involved for shippers in their efforts to calculate the rates which are applicable to the shipments which they have in mind, to eliminate the competitive advantage which the larger shippers with freight traffic experts have over the smaller shippers, and to make possible the securing of definite figures as to the rates applicable for various commodities to the end that the policy decisions which must be made by regulatory bodies can be based on definite factual information. For these reasons, the Manitoba Government makes the following suggestions as to the means by which a considerable degree of simplification might be achieved.

Our first suggestion is that an additional number of class rates should be established at levels lower than the current 10th Class. In that regard, Item 9 of the Manitoba Brief of Points reads as follows:

"9. On a more technical matter, it is our submission that the class rate structure as it now applies in Canada should be carefully studied together with certain recent changes directed by the Interstate Commerce Commission of the United States, with a view to determining whether

or not it would be advisable to establish an additional number of classes in Canada at rates lower than the present 10th Class rate so that a greater percentage of the traffic will move at class rates and will consequently be under more adequate control by the Board of Transport Commissioners."

In the present rate structure there are a relatively large number of commodities for which there are so-called commodity mileage rates which apply over relatively large areas, and which, in some cases, carry a substantial volume of traffic, while in other cases, special rates of various sorts, carry the traffic at lower levels even than the commodity mileage rates. These commodity mileage rates are, in many cases, different in Eastern Canada than in Western Canada and their status is not precisely defined, with the result that there is some doubt as to the exact jurisdiction of the Board of Transport Commissioners in respect to them. For example, it is not clear exactly what changes can be made by the railways without the necessity of a formal approval of the Board of Transport Commissioners. The suggestion is that new class rates should be established at levels lower than the current 10th Class, and that these commodity mileage rates should be incorporated into the class rates, by assigning each commodity which now has a commodity mileage rate, to the class which is nearest to the commodity mileage scale. The effect would be, first of all, to standardize the rates for those commodities in the different parts of Canada; secondly, to bring them under the jurisdiction of the Board of Transport Commissioners for all those matters in which the Board has

control of class rates, and thirdly to simplify the rate structure in such a way that the public and the shippers will be able to understand and analyse the rate situation in respect to these commodities, without the need for the same amount of expert knowledge which is required at the present time.

In addition to the class rates and commodity mileage rates, there are in the rate structure approved by the Board of Transport Commissioners, at the present time, several varieties of competitive and commodity rates. The criteria by which these rates are judged and the authority of the Board in respect to them, varies in the different categories and in many cases, is not at all clear. It is the view of the Manitoba Government that the situation would be much more satisfactory if these minor distinctions were eliminated and if the rate structure were reduced to the two types of rates, namely class rates, embracing the type of rates which have been discussed above, and "other rates". This category of "other rates" should, in our view, be treated in the manner which has been outlined in respect to competitive rates, in that they should be subject to the tests which have been outlined for competitive rates and should be subject to change only when those tests have been met in the manner outlined.

One other source of difficulty is worthy of comment, namely the fact that for a particular shipment it is very difficult for the shipper to discover whether or not there is a special or commodity or competitive rate in existence which would give him a lower charge than the standard rate. At the present time to discover this involves

a lengthy study of the relevant tariffs and the relevant supplements to those tariffs. Although we have no concrete suggestion on the matter, it is our view that your Commission should recommend the provision of a more clear-cut method of discovering whether or not the particular shipment is subject to the regular class rates or whether some "other rate" applies. The system which is worked out for this purpose should also give some indication of the source from which one would determine the applicable rate. If such a system could be worked out, it would eliminate the time and expense which is now involved in a study of all the tariffs which might conceivably refer to the particular commodity concerned, because under the present arrangement, some extensive search of this sort is involved in any effort to answer this question.

Now, the next section simply suggests that if and when anything is done with respect to adding any new commodity classes, it would then be necessary to review the commodity classifications, and that in any case it is probably desirable that the commodity classification should be reviewed now in view of the fact that it has been there for a considerable period.

THE CHAIRMAN: Reviewed by whom, Mr. Moffat?

A. The suggestion is the Board of Transport Commissioners, that your Commission should recommend the Board of Transport Commissioners to take on that job at a reasonably early date.

To review their classifications?

A. Yes.

Q. Don't you think it would form part of the task that is now before them?

A. Not necessarily. It might, it might not.

Q. They might be asked to do it?

A. They might be asked to do it, yes.

COMMISSIONER INNIS: Are you worried in all this about any effect on the shipper, particularly any effect of a sharp change of rates. Suppose they were to start to take out competitive rates and so on, are there various vested interests which have grown up in relation to those rates? It doesn't worry you that their interests are neglected?

A. I would not say their interests would be neglected. There would have to be a look at this situation; but if we are in a situation where there are increases going to be of the magnitude that we have had, 21 per cent, 15 per cent, 8 per cent, and are getting to a place where rate increases have

been somewhere around 50 per cent on the commodities, where that happened anywhere, another 10 or 15 per cent on top of that will not really disturb an industry more than they have already been disturbed.

Q. But we hear a good many complaints from a great variety of firms and industries to the effect that their position had been injured, and I am wondering whether any sort of sudden development would not lead to a big upheaval?

A. I think it would inevitably.

Q. But that would not worry you particularly?

A. It would worry me, but just because a particular firm or industry has had a discrimination in its favour for a long time, does not create a vested interest. It may create a vested interest in having a little bit longer notice before the change is made; it may create a vested interest in having an examination to see whether or not there is need for a change, but not in retaining a rate permanently.

Q. Put it this way. Would you pray for a very gradual cautious approach to changes?

A. Well, I would divide it into two categories. So far as standardization of the class rates is concerned, which is your basic starting point, we can see no reason why that should not be done immediately, that the changes are relatively small.

Q. I am not raising that question.

A. On the other kind of rates we can see no reason why there should not be a general boost of the sort that has been going on from time to time here now for the last year and a half; why that should not be continued reasonably steadily until it brings about a situation more or less in line with what is here.

You will notice the emphasis through this thing is that the situation was bad in the past, it is not so bad right now, and that it is being improved we think partly because of the fact that provinces have been taking such active interest in this thing for the last two or three years. It is more of a request that something should be done so that we do not recreate the whole situation. You will notice that type of emphasis here in several places, that the present situation is much improved and that if we had a guarantee that we could get the class rates straightened out, we would not be too upset about the thing, but it is the fear of going back to what we had before, that is the fundamental point.

MR. FRAWLEY: I was wondering about these rates that you are recommending to be boosted, I am just wondering whether it would affect me at all. You say, go on being steadily boosted?

A. The competitive rates.

Q. Competitive rates?

A. Yes, those rates which are lower than the standardized rates.

MR. SHEPARD: You mean the rate between Calgary and Edmonton, for example?

A. Calgary and Edmonton might be involved, yes.

MR. FRAWLEY: You stick to that one.

THE CHAIRMAN: On this question of classification you say the present classification is defective. You must say so because you say there should be other classes?

A. We say there should be. The present classification is, you might almost say, meaningless because of the --

THE CHAIRMAN: How far back does it go, how venerable is it?

MR. O'DONNELL: It is very venerable, I think.

THE CHAIRMAN: Can you point to any particular year when it was done?

A. I could not, but maybe some of the railway people could.

MR. EVANS: It was a classification case in 1925. There is a continuing right that Manitoba or anybody else could ask for.

THE CHAIRMAN: But anyhow the last classification was that which was arrived at in 1925, you tell me.

MR. EVANS: Yes, that is the last general consideration.

MR. O'DONNELL: And going through the whole history of the railways right from the beginning, as I remember, I think there were four classifications originally and that has grown constantly through the years until we have--

THE CHAIRMAN: Ten.

MR. O'DONNELL: Until we have the present set-up which was reviewed in --

THE WITNESS: There is the point in that connection that the classification can be reviewed from time to time, that is true, on application by any interested party; but an interested party who is big enough to take on a job of that sort is more likely to ask for a special rate for his commodity, because classification just does not interest him. The result is that unless some public body like a Royal Commission or the Board of Transport Commissioners itself takes the initiative, the chances of getting a thorough overhaul of the classifications are relatively small. You

will get someone who is interested in a particular commodity, but you will not get anyone coming in who is interested in the whole thing, except a Royal Commission such as yourselves, the Board of Transport Commissioners and probably the railways.

MR. O'DONNELL: And who else should be interested?

A. The small shippers.

MR. EVANS: I must resent here these suggestions in creating inferences in the Commission's mind. The fact is that under Section 36 the Minister could ask the Board at any time to make a general inquiry into the classifications, and if Manitoba wanted one they could get one tomorrow, I have no doubt. They have got one actually now.

MR. SHEPARD: That is why we are here, Mr. Chairman.

MR. FRAWLEY: Not tomorrow. Wait until we have finished this.

MR. SHEPARD: Will you continue, Mr. Moffat?

THE CHAIRMAN: How long do you think you ought to wait to have this reclassification made? Have you in mind that the Board should first be clothed with all the new powers that you suggest here, and that the new personnel of experts be formed before they proceed to reclassification, or could they do it now?

A. As we conceive it, it would not be so much a problem of new personnel or even new staff, but only a new attitude.

Q. A new attitude?

A. An attitude that they are starting things, that they are taking the initiative, rather than that they

are acting as judge between two litigants and listening to what is brought before them from both sides and then deciding on that basis. It is that sort of change we would like to see.

Q. If they did not know what is done on both sides, how could they ever arrive at a finding?

A. As an administrative body it is their function to find out. When you have approximately equal antagonists on the two sides then you can depend on what they bring to you; but when you have a thung of this sort where there are a vast number of relatively small interests involved, there is no possible body to reach them.

MR. EVANS: You mean the Province of Manitoba?

A. Which is why we are here, as Mr. Shepard pointed out, but that is a new development of the last couple of years and that is the sort of thing that might be done, but even in that case, --

THE CHAIRMAN: Just a minute, you do not intend we should enter in that classification for you, do you?

A. No, the only suggestion is that you might recommend that the Board do it, and that they adopt this kind of attitude to bring it about.

Q. What kind of attitude?

A. That they are to act on their own initiative and not simply act as a judge between litigants and decide on the basis of past precedents of twenty-five or thirty years ago.

MR. SHEPARD: And also, Mr. Moffat, to increase the number of classifications.

A. Then we have some specific suggestions that are here given.

THE CHAIRMAN: Then they would be taking certain classes of commodities on the present classification, putting them down or higher up, as the case may be?

1. Yes, that is right, although in the Act they are already out of these classifications.

2. They are a special classification now, presumably?

A. Yes, and the suggestion is that they should be put on something that is uniform, that is, that there should be a class rate at the level where the rate now is to bring them in the rate structure rather than suffer a rate that sticks out by itself.

MR. EVANS: I don't think I shall let that go unchallenged. The witness has said they are already taken out of the classification. They are not, they are still classified, and your lordship is quite right that it would involve taking things out of classes and putting them in different classes. It may be true, as the witness has said, that despite the fact that the commodity is classified as 5th or 6th class, that there is a commodity rate irrespective of this classification, but you still have to overhaul the classification because theoretically every commodity is in it.

THE CHAIRMAN: Then you would say, would you, that these special commodity rates could constitute a new class. Is that what you say?

A. A substantial number of them;

2. A substantial number of them?

A. Yes.

Q. So that the special commodity rate would then become --

A. The regular class rate for that commodity.

Q. The ceiling rate?

A. That is right.

Q. I see, all right.

MR. SHEPARD: Would you carry on, Mr. Moffat?

Review of Commodity Classifications

Implicit in the suggestion that a number of additional new classes should be established, is the suggestion that there should be a complete review of the existing freight classifications for the purpose of establishing what commodities should fall in the various new classes. It is our view that this new classification should not, however, be restricted to this purpose only. The present classification has been in existence for many years and operating conditions and the character of the traffic in various commodities has been materially changed in the interval. Consequently, it seems to us that a thorough review of the classifications should be undertaken in the light of present conditions.

One of the major changes which would be introduced would, of course, be the assignment of the commodities to fall into new classes. Furthermore in a number of cases at the present time, a commodity moves at rates equal to one of the lower class rates, but the arrangement is set up as a commodity rate at that level and the commodity continues to appear in a higher class in the official classification. In such cases it is our view that the commodity should be reclassified and placed in the lower classification and that the reference to it in the higher classification should be eliminated.

Closer Contact with the Public

Another matter which is related to this question of simplification is that of providing machinery by which

the public and shippers can secure information on these subjects. At the present time, the only sources of information which are available outside of Ottawa are those which are provided by the railways and by the Canadian Freight Association which is merely a joint agency among the railways. It is the view of the Manitoba Government that some arrangement should be made whereby shippers and the public can secure information and discuss their rate problems with a person having expert knowledge of the situation who is not directly associated with the railways. For that purpose we feel that your Commission should recommend that the Board of Transport Commissioners should provide local representatives in each province. At the present time there are local representatives at certain points in Canada, but their attention is devoted almost entirely to questions of safety and accident prevention work. Our suggestion is that local representatives dealing with rate matters should also be provided or that the present local offices should be expanded so that they can perform that function also.

THE CHAIRMAN: Pardon me a moment. You would require persons to have an expert knowledge of the situation. How do they acquire such knowledge?

A. People on the staff of the Board, --

Q. I say, how would these people acquire the knowledge?

A. Well, they could be put on the staff of the Board and trained there. They could be recruited to some extent from the railways, they could be recruited from some of the chambers of commerce who have specialists, and some of the larger firms have built up a specialist staff on these matters. In the main I would think it would be a problem of training them on the Board's own staff.

THE CHAIRMAN: All right, go on.

(Page 8821 follows)

Another suggestion is that provision should be made for public hearings on a more frequent and less formal basis. At the present time, the Board spends a good deal of its time in travelling throughout Canada and holding formal hearings at various centres. In many cases these hearings are concerned with relatively minor matters. The result is that the Board itself has less time for the consideration of general policies while, in outlying areas the public can meet the Board only infrequently and at full formal hearings. Our suggestion is that your Commission should recommend that arrangements should be made whereby the Board can delegate its public hearing functions on minor matters, either to one member of the Board or to a senior member of its staff, with a provision that any decision reached on such a basis would be subject to appeal to the full Board. Such an arrangement would free the members of the Board to devote their attention to major issues and to overall policy. At the same time it would make possible more frequent hearings in the different parts of Canada. What we have in mind here is the creation of a position somewhat similar to that of the "examiners" in the Organization of the Interstate Commerce Commission.

THE CHAIRMAN: Q. Have those examiners the power to do things, subject to appeal to the Board?

A. I am not entirely familiar with their duties, but primarily, as we understand it, they hold public hearings, they make recommendations to---

Q. Who hold public hearings?

A. The examiner holds a public hearing, hears what the issue is, recommends to the Board, and the actual order goes out under the authority of the Board as a whole. Now, I would not be sure of that.

Q. You suggest something different here. You say that these persons who go out would reach decisions, which would be subject to appeal to the Board.

A. The suggestion here goes a little farther than that, that is true.

Q. You do not think that is unduly complicating the situation?

A. Well, that would be something that would be discovered by a trial-and-error method, I should think. They might have authority to make decisions; it might be discovered in practice that the decision should be reviewed in advance and issued by the whole Board. That is something that would be discovered from experience.

Q. You would have the parties before the whole Board, anyhow?

A. You might in some cases, but you at least have an opportunity for getting hearings out into the smaller centres and out away from Ottawa, without taking the whole Board out there and getting the whole Board tied up on that kind of case.

MR O'DONNELL: The whole Board does not have to go now.

THE WITNESS: No, that is right.

MR SHEPARD: Q. Will you carry on, Mr. Moffat? The next section deals with prescribed standard accounts.

COMMISSIONER ANGUS: Q. Does the Interstate Commerce Commission issue statements of policy? You speak of that in the last line of this section.

A. No, I suppose that is true -- well, in a sense it does. It is directives; they may not really be in the form of statements of policy, but they issue directives saying depreciation shall be handled in this way, that accounts shall be set up in such-and-such a way,

that for the purpose of calculating investment this is the way it is to be calculated. I do not know just what the proper term is, whether it is a statement of policy or a directive as to method, but they do that sort of thing.

THE CHAIRMAN: Q. It might be procedure?

A. It might be procedure, as to the operating conditions on the road, as to safety. maybe the term "statement of policy" does not cover it exactly.

COMMISSIONER ANGUS: Q. Any counterpart in the case of the Canadian Board?

A. A fairly substantial number, I think, in safety regulations and that sort of thing.

MR EVANS: Rules and regulations, the same as the Board.

THE CHAIRMAN: Q. That is all you need, then, rules and regulations? They are published now, are they not?

A. Yes.

In that organization, the "Examiners" are senior members of the staff but not members of the Board itself. They hold hearings and report on facts to the Board and apparently advise and assist the Board in all its policy decisions and in the preparation of its statements of policy and its written judgments.

PRESCRIBED STANDARD ACCOUNTS

Subsection (d) of Section 2 of Order-in-Council P.C. 6033 reads in part as follows:

"Review the present-day accounting methods and statistical procedure of railways in Canada, and report upon the advisability of adopting (or otherwise), measures conducive to uniformity in such matters."

The various matters which have already been dis-

The various matters which have already been discussed in this present brief provide many illustrations of the need for some improvement in the accounting and statistical records which are now available concerning the Canadian railways. During the course of the hearings before the Board of Transport Commissioners on the last two applications for rate increases, it became clear that in many instances neither the Board nor the Provinces were able to analyse and interpret the published railway accounts properly because of three major difficulties. These difficulties were that in some cases :

1. Proper analysis of certain totals was not possible because of lack of information as to the precise content of those totals;
2. Comparison of one railway's accounts from year to year and from period to period, were of limited value because of changes in the accounting policies of that railway;
3. Comparisons between the different railways were rendered difficult because the railways concerned did not follow like accounting policies.

The result was that there were many analyses which the Provinces were unable to make and on a number of occasions, analyses which were made and presented to the Board, were found to need substantial revision after railway witnesses and counsel provided detailed information as to the content and preparation of the accounts.

It does not seem appropriate at this point to attempt to give extensive examples, but a reference to the discussion on the maintenance accounts and on depreciation accounting as already covered in this brief, will make clear the significance of this point in respect to those two items. Similar problems arise in the case of the

division between rail and non-rail expenses and rail and non-rail income. We have not been able to make such a careful analyses of all aspects of the railway accounts but the fact that a number of situations of this type have been discovered suggests to us that a thorough review of the whole accounting set-up should be made for the purpose of eliminating so far as possible, the three types of difficulties enumerated above.

One point should be made clear at once. We are not suggesting that the railways are keeping their accounts in an inaccurate manner. Neither are we suggesting that the accounts are not capable of interpretation by a person who has full access to them and who is familiar with the principles upon which they are based. Our criticism is two-fold, however:

1. Neither the public nor the Board has access to sufficient detailed information to be able to interpret properly, those accounts which are made available.
2. Certain matters which, in our view, are vital to national transportation policy, cannot be dealt with because the accounts are so constructed that the relevant information is not available.

To a large extent these difficulties would be overcome if the Board and the public had easier access to detailed information from the railway accounts, but even the fullest disclosure of details would not remedy other defects. The primary accounts, in certain instances, reflect the policies of railway management as to how those accounts are to be kept. For example, if depreciation accounting is used for road assets, the charges to current maintenance will be handled differently from the procedure which would be followed if road is on renewals. Important

variations in financial results might therefore result from a difference in accounting policy, while the accounts themselves would be perfectly complete and perfectly accurate in both cases.

One other preliminary matter requires clarification. The objective is not merely uniformity; rather it is uniformity upon a set of standard accounting classifications which will provide the necessary information. If one were to interpret the above quotation from Order-in-Council P.C. 6033, literally, it seems to imply that the only requirement here is "uniformity," but it is our view that a broader interpretation is necessary and that what is required is uniformity on a basis which will make possible sound decisions on all matters concerning railway policy. This concept of standardized and clarified accounting classifications implies that the system is to be prescribed by the Board of Transport Commissioners and made applicable to all the Canadian railways. It also implies that the Board of Transport Commissioners should be equipped with a sufficient staff of experts in this field to prepare and supervise the application of the prescribed accounting system.

I might summarize these next two paragraphs quickly:

It is not our purpose to attempt to lay down in detail, the type of account which should be prescribed in specific instances, rather we propose to direct our attention to the general principles which should underlie them, and it is our view that your Commission should recommend that the Board of Transport Commissioners should set out a prescribed system of account following on the principles which will be stated hereafter.

We do not recommend that the system of account as prescribed by the Interstate Commerce Commission in the United States should be followed exactly and in detail. The latest Interstate Commerce Commission Manual does, however, reflect the degree of detail and the amount of precision which that Commission feels to be necessary in order to avoid such a degree of generality that the problem of precise interpretation of various accounts still remains and at the same time avoid such a degree of detail as to prove unnecessarily complicated and unnecessarily time consuming in the prepara-

(Page 8827 follows)

tion of the accounts. We would suggest that that manual offers a useful guide as to the amount of detail which will be required in describing any particular account and as to the procedure which might be adopted with border-line cases. We would make it clear, however, that in order to reflect Canadian policies which need not follow American precedents, substantial variation from the Interstate Commerce Commission Manual will be required in order to adapt it to the Canadian situation.

We are not proposing here to lay down the details of what sort of system should be involved. We are not even suggesting that your Commission should attempt to do anything of that sort. We do suggest that the system laid down by the Interstate Commerce Commission gives an indication of the general type of thing that would be required and the general amount of detail that would be required, although it would need substantial variation to make it fit the requirements in Canada.

THE CHAIRMAN: Q. You say that to-day there is lack of uniformity within each railway itself?

A. Over a period of years, yes.

Q. Over a period of years?

A. Yes.

Q. And there is another lack of uniformity between railways?

A. That is correct.

Q. And you want to see both those deficiencies disappear?

A. Well, either disappear---

Q. In order to achieve that, certain questions of principle will have to be studied and made uniform?

A. That is correct.

Q. Depreciation, for instance?

A. Yes; well, there is a series of suggestions here.

Q. That is what you want?

A. That is correct, yes.

Q. All right.

A. The first requirement of such a system of prescribed accounts is that there should be a clear definition of the activities which are to be covered by it. It is the view of the Manitoba Government that this system should cover all rail activities of the Canadian railways. The term "rail" as used here should extend to the point where it will cover revenues and expenditures, both current and capital for all those activities which are to be taken into account in determining the level of freight and passenger rates in Canada. The particular division which should be made here has been described previously and needs no further elaboration at this point.

That was the discussion of the division between rail and non-rail.

Q. What chapter was that?

A. Chapter IV, page 5; page 70 of the printed copy.

Having thus defined precisely the field which is to be covered, it is our view that the second major objective which should guide the Board in setting up a prescribed system of accounts, should be that of drawing clear distinctions between -

- (a) capital supplied by the owners of the corporation;
- (b) capital supplied by the users of its services.
- (c) capital from other sources.

The third principle, which in our view should guide the decision in these matters, is that a clear line of demarcation should be established between expenditures which are of a current nature and expenditures which are of a capital nature. As pointed out in the chapter on

"Maintenance Expenditures" it is essential that precise figures as to the cost of carrying the volume of traffic which is moved in any year and of maintaining the railway system during that year, be available distinct from any expenditures which may be made during the year for the purpose of improving the physical asset so that a better standard of service can be provided in the future, or to make good deficiencies of the past.

It is the view of the Manitoba Government that in addition to the above information, the prescribed system of accounts should make provision for securing data as to the cost, revenue, profit and investment in the different regions of Canada. During the recent rate cases and in the rate cases and the general freight rate investigation of the 1920's, a good deal of attention was directed towards the fact that the railways were apparently making much greater profits in Western Canada than in Eastern Canada. We have discussed this point at some length in the chapter entitled "Regional Considerations," and we merely refer to it again here for the purpose of making it clear that in our view the Board of Transport Commissioners, in setting up its prescribed system of accounts, should make provision for securing accurate information as to the relative level of profit in the different regions of Canada.

MR SHEPARD: Q. Then the next section, Mr. Moffat, is "Financial and Statistical Reports," the next couple of pages, and I understand it is your intention to read that section. Will you proceed, please?

A. The section which I have just read lays down the principles which we think should guide the setting up of the prescribed system of accounts. This next section deals with the sort of reports that we think should be provided by the Board of Transport Commissioners and to the

public, in order to make it possible for them to interpret and study and express their views on the various matters which are properly under consideration by the Board of Transport Commissioners.

FINANCIAL AND STATISTICAL REPORTS

As we have already pointed out, one of the main sources of difficulty in interpreting the present railway accounts is the lack of sufficient detailed information in the hands of the Board and those who are attempting to analyze railway results. Consequently, the question of the type of reports which the railways make to the Board and to the public, follows directly from the discussion of prescribed standard accounting classifications.

It is the view of this Government that the present published reports should therefore be reviewed with the objective of making available to the public of Canada, the detailed information which is necessary to a full disclosure of all facts relevant to the determination of the level of freight rates to be charged in Canada. At the same time, care should be taken to preserve the secrecy of any aspects of the companies operations which are not properly a subject of public information and to avoid the cost of a large amount of clerical work in preparing reports in unnecessary detail.

Once an attempt is made to go beyond broad general objectives and criteria of this type, however, it becomes necessary to consider very detailed and specific requirements as to the form and structure of these reports. We offer below, certain specific suggestions. These suggestions deal with matters which seem to our technical consultants to be of particular importance in the light of their experience in the recent rate cases. The list is by no means intended to be exhaustive, but it does give some indication of the nature

and range of the information which, in their opinion, should be available to the Board and the public.

Our suggestions with respect to the Annual Reports by the railways to the Board and to the Dominion Bureau of Statistics, are that they should:-

1. Reveal as fully as possible, the results of railway operations during the period under the standard accounting system prescribed by primary accounts;
2. Reveal changes in the different asset accounts during the period, and in the related reserve accounts;
3. Reveal operating revenues, operating expenses and investment, in the major regions of Canada and the formulas which have been used to allocate those items which are not directly attributable to the service in any one region.

THE CHAIRMAN: Q. What do you mean by the major regions of Canada?

A. East and west.

Q. I see.

A. That is all we are advocating. Someone else may want more detail. We do not see that it is particularly necessary to go beyond east and west.

4. Include a Balance Sheet segregating rail and non-rail assets and their related reserve accounts;
5. Include the data necessary to a more detailed study of traffic statistics particularly with respect to the volume of traffic moving under the various types of rates.
6. Include the data necessary to a study of the relative level of rates in the major areas of Canada;
7. Include an annual inventory of assets in service, classified in such a manner as to reveal the

number of years the various assets have been in service;

8. Include a statement showing wherever possible, statistics of physical units such as rail placed, ties placed, man-hours of work performed, etc., in total and segregated between that chargeable to maintenance and that chargeable to capital.

Our final suggestion in this regard is that there should also be a system of monthly reports in a more condensed and less detailed form, covering those records for which monthly figures are relevant. Wherever monthly reports are provided they should follow the same pattern as the annual reports.

Now, it is obvious, of course, that figures of assets and investment and that sort of thing on a monthly basis would be useless. It is revenue and expenses wherever they are applicable here that we would like to see included in the monthly reports, on the same pattern as the annual reports, so that it is possible to use the monthly reports as an indicator of how the annual results are likely to shape up.

MR O'DONNELL: Q. Is not that monthly report being made now?

A. Not in the same pattern as the annual.

MR SHEPARD: Q. Will you carry on with Chapter XII, Mr. Moffat?

CHAPTER XII

CONCLUSION

This final chapter is not intended as a summary of the views which were expressed in the body of this submission. Rather, it is our purpose to restate briefly our conception of the problem of transportation as related to the function of the Canadian railways. It is our view that

these functions are closely related to the stage of development in which Canada finds itself and that the nature of the problem has changed with the various stages of national development.

In this submission we have attempted to deal, in some detail, with those aspects of this problem which, in our view, require particular attention at this time. The problems which we have outlined are, of course, closely related to the present stage of Canadian development and to present conditions in Canada. As in the past, so in the future, the nature of these problems will undergo continuous change and any solutions attempted at this time will therefore inevitably require further review and amendment from time to time. Our suggestions are advanced with this thought in mind and with no intention that they should be interpreted as proposals which are intended to remove all future difficulties in Canadian transportation.

It is obvious that the railways and others will wish to discuss before your Commission, a number of matters which are not covered in this submission. When such matters are raised, the Government of Manitoba proposes to give consideration to the suggestions made and to their probable effect upon Manitoba. We would, therefore, like to ask that we should have the right to make further representations to you regarding any such suggestions made in other briefs.

MR SHEPARD: That concludes the Manitoba evidence in chief, Mr. Chairman.

THE CHAIRMAN: Any questions?

MR COVERT: Mr. Chairman, I have arranged with counsel as to the order, and I understand that there will be several of the counsel for the provinces who have no questions to ask, and the order which has been arranged is that Mr. Brazier will go first, and then I think Mr. Hume

has one matter to deal with; then they will be followed by Mr. Evans and Mr. O'Donnell.

Mr. Brazier.

MR BRAZIER: My questions, Mr. Chairman, will be very brief, just on one or two points.

CROSS-EXAMINED BY MR BRAZIER:

Q. Mr. Moffat, does the Government of the Province of Manitoba look upon the two transcontinental railway systems as national utilities or not?

A. Yes.

Q. You still are suggesting, though, that there should be some breakdown into regions?

A. That is correct, yes.

Q. And, as I understood your answer to one of the Commissioners, you are now only advocating two major divisions, east and west?

A. Well, we can see fairly strong arguments for going beyond that and for asking that the prairie regions be handled on a separate basis, on the grounds that the type of traffic there---

THE CHAIRMAN: Q. Where?

A. The prairie regions; that the type of traffic there is---

MR BRAZIER: Q. By that what do you mean? You mean the Provinces of Alberta, Saskatchewan and Manitoba?

A. Down to the Head of the Lakes. The traffic in that region is reasonably homogeneous; the costs of it are reasonable homogeneous; the charges pass back to the same people. On the other hand, there is an argument for extending the area substantially in both directions. There are certain commodities on which we feel that the west pays the whole transportation charge right through to Montreal;

there are other cases where we think the west pays the whole transportation charge right through to Vancouver, the prairies pay the whole transportation cost right through to Vancouver. Consequently we had considerable discussion among ourselves, and the conclusion which we came to was that the most reasonable over-all request should be two regions.

(Page 8836 follows)

Q. Now will you say quite definitely then that the Government of Manitoba is not suggesting that British Columbia be set up as a separate region again?

A. No, we are not making any suggestion one way or the other.

THE CHAIRMAN: Mr. Brazier - "again"?

MR. BRAZIER: Again, yes sir.

A. We are not making any suggestion one way or the other and we are not making any suggestion as to how the railway keeps their accounts. They can keep their accounts anyway they like. It is only for the purpose of calculating freight rates that we would like to see revenue and expenses in those two regions made available for public policy. How they keep the accounts is no concern of ours.

Q. You would not suggest levels of rates based on costs exclusively on British Columbia as against levels of rates based on costs in the Prairies? You see Mr. Moffat, I have in mind that at the time when the Mountain differential was removed the Government of Manitoba made a submission at that time that they would not appeal that particular decision. They were going on to place it before the Royal Commission for consideration. Has the Government of Manitoba receded from that decision now?

A. There is a very substantial case for asking for it the other way, that the Prairies be handled on their own basis. The decision of the Government was that at this time the policy of the public definitely would be that it seemed most practical and most reasonable - two divisions. That does not say that there is any commitment that they won't change that position if they are faced by a specific problem, but their fundamental

request is that the regional profitability should be taken into consideration in setting the level of rates in Western Canada.

MR.FRAWLEY: I think perhaps, Mr. Chairman, I think it would be helpful if I brought this matter to the attention of the Commission, a matter of which they are perhaps well aware. Mr. Moffat has been associating the Province of Alberta and the Province of Saskatchewan with the Province of Manitoba in referring to that area as the Prairie Region in contrast to British Columbia on which my friend Mr. Brazier spoke. I want it on the record that the Province of Alberta very strongly supported Manitoba in the removal of the Pacific region.

THE CHAIRMAN: I don't think Mr. Moffat had finished answering the question.

MR. BRAZIER: Would you care to answer it again? Perhaps the reporter would read it out?

(Reporter reads back previous question)

THE CHAIRMAN: The question you were asked was whether the Province of Manitoba would continue to take the same position about the removal of the Mountain differential. I have not heard Mr. Moffat answer. Perhaps he cannot answer that.

THE WITNESS: No, on that point the instructions that we have are along these lines, that the submission there^{is}/to the effect that we think it is a sound principle that no region should pay its own costs. We still think it is a sound principle that no region should pay its own costs and that British Columbia should pay rates which reasonably reflect costs in the British Columbia region.

Q. Where does that lead you?

A. I coming on to that - but there is some evidence and I had some indication given here yesterday, that Transcontinental rates and rates of that sort have been the rates in British Columbia, and that if it appears that the total revenue being collected in British Columbia from those sources is offsetting the revenue which is being deducted as a result of the removal of the mountain differential, the total of revenue being received in British Columbia is not affected by the total overall effect of the removal of the mountain differential and these other adjustments. If that is so, the basic principle is being satisfied, and that being the case, we are not instructed to raise the mountain differential issue specifically before this Commission.

MR. BRAZIER: You are reserving to yourselves the right at any time, , if you are not satisfied by the contribution made by British Columbia to the overall revenue of the railways, to suggest ' ' once again that it be imposed?

A. We are reserving the right to raise anything at any time. We are not committing ourselves. The Government is not prepared to commit anybody for the future.

COMMISSIONER ANGUS: At the present time you are proposing the division of Canada into two regions?

A. That is correct.

Q. Are those two regions the prairies and the west, or is it everything ^{west} of a certain ^{point} and everything east of a certain point?

A. Everything west of a certain point and everything east of a certain point.

Q. So that you include British Columbia with the prairies?

A. Yes, that is the province's suggestion here.

MR. FRAWLEY: That is the law at the moment there.

MR. BRAZIER: I think you are familiar with the difficulty which arises when you attempt to break down costs and revenue between various regions to determine whether or not they are making a fair contribution?

A. That is the point that Professor Innis raises, yes.

COMMISSIONER INNIS: No, I was just going to push your question a little bit further. You were intimating that it was difficult to decide what was in all cases the extent to which the west paid the cost on commodities. In some cases they paid the cost moving east and in some cases moving west. Now you have not developed that in any extensive fashion or to any extent which would weaken your position with regard to these rather carefully worked out tables?

A. On those tables - it was carefully indicated to that those tables were only an approximation. They certainly do not in any way reflect the traffic which the west passed and the east passed. They reflect the traffic which goes over lines which are geographically located in the west and in the east.

Q. But you made no attempt in your analysis to indicate by another approach - by a general economic analysis?

A. No, we made no attempt to do that. It is certainly the sort of thing we would like very much to have but how to go about it is something we have not made any progress on.

THE CHAIRMAN: And you are not making any assumptions on it?

A. On that point, no.

Q. You are not assuming that everyone in the west is paying more than its value or less?

A. No, all we are saying is with respect to the lines of railway which are geographically located in the west and in the east this is the revenue and this is the expenses. Whether that is paid by the east or the west - I think in a particular item in Premier Campbell's brief the point is made that there is a very substantial part of traffic over lines located in the east which we pay, particularly the grain traffic, and on farm products going down into Montreal and Toronto.

MR. BRAZIER: Now, Mr. Moffat, let us start with the division then of the structure as between east and west. The whole basis of your submission is your using the Canadian Pacific Railway as the criterion for judgment of profitability. Is that correct?

A. Well, there are two aspects of that. As far as the total return to the Company as a whole, in principle we are asking for the C.P.R. to be used as a yardstick. So far as the regional comparison is concerned, we have used the C.P.R. because we have C.P.R. figures available.

Q. What would be the answer to it if, say, the C.P.R. was making more profit in the west than they were in the east but the case of the C.N.R. was just reversed, that they were making more in the east than they were in the west. How would you determine whether or not there should be some difference in the level of rates?

A. Nobody is suggesting any difference in the level of rates.

THE CHAIRMAN: You mean difference between the east and the west as between railways?

MR. BRAZIER: Yes.

A. We are not suggesting any difference; we are suggesting that the two rates should be equal in the two areas regardless of cost.

Q. But I think you say they should be equal except where the costs are different. Now, looking at Chapter 1X where you quote Premier Campbell's statement:

"It is our submission that it should be a fundamental principle of the Canadian Railway freight rate structure that freight rates charged for the same traffic over the same distance should be equal, except where costs, competition, the needs of national development or other circumstances require some deviation from that principle."

A. Well, costs and competition in relation to rate. That is a competitive rate situation. That is not on a basis of costs by regions; that is competitive rates.

Q. You are not speaking there of any general level of rates?

A. No, that is particular rates in that context.

Q. Now you say that we should start with a general equality of rates?

A. That is correct.

Q. What would be your basis for the establishment of those equal rates? Would you take the highest rate in the category today or the lowest one or would you take a rate in between?

A. What we have suggested here is the present level of town tariffs in Eastern Canada with some adjustment as to the rates of the taper, but the general level to be the town tariff level.

Q. That is to be the lower rates?

A. That would be the standard class rate structure across Canada.

Q. Well, would you apply this equality to start with to commodity rates too?

A. Well, the suggestion is that so far as the present ten classes, that should be done on the basis of establishing them all at the present town tariffs, that there then should be other classes put in, lower than tenth, and that the commodity mileage rates and wherever there is a fairly substantial structure to a special rate, should be brought on to whatever class rate is corresponding to the present rate level for that particular commodity.

Q. That would not give you an equality of rates in Canada to start with. You are familiar with the great volume of traffic that moves on straight commodity rates as against class rates?

A. No, there is no advocating that all rates should be equal; it is only advocating that rates should be equal where there is no difference in the nature of the traffic, where the conditions are absolutely similar and where there is no competition or difference of cost by those things you quoted a minute ago and which do not justify deviation from equality or a particular rate.

Q. Well, presuming that there was that equality of situation so far as some commodity was concerned which moves at different commodity rates in different parts of Canada, are you suggesting that they should be made equal?

A. I don't know of any product that moves on a different commodity rate in one part of Canada than in another part.

Q. I don't think of any specific one at the moment.

A. I am sorry. There are plenty of places where

commodity rates are different. I thought you said class rates.

Q. Then I understand you are not suggesting the equalization of those rates subject to these deviations?

A. Where there are comparable conditions, yes, but where there are special factors like the ones you enumerated there, competition costs and the needs of national development, you may have deviation, yes.

THE CHAIRMAN: Well, you told me this morning you would re-classify that kind of rate, give it a number?

A. That is correct, wherever you were putting it on a standard uniform rate across Canada that would go on as a classified rate and go in as a rate classification.

Q. In that case, it could never be increased?

A. Except by direct authority of the Board - that is right.

MR. BRAZIER: In Chapter 1X, Mr. Moffat, you give the criteria for departure from equality and in speaking of competitive rates you quote the criteria set forth by Mr. Walker of the Canadian Pacific Railway. There are two criteria that you lay down for judgment on competitive rates. It is page 3.

A. Yes, I know the pages you are referring to.

Q. And you are satisfied that those are the two criteria for the judgment of competitive rates?

A. Yes, although you will find that where we deal with transcontinental rates we put those same two in and there was a third one added.

Q. That is what I was coming to, Mr. Moffat, but the transcontinental rates are competitive rates, are they not?

A. Yes.

Q. Water competitive rates?

A. I am afraid we will have to plead guilty to that one. The criteria should be exactly the same,yes.

Q. And you are satisfied at the present time there is active competition which justified the railways --

A. No, I am not, sir.

Q. Do you read the Montreal Gazette at all, Mr. Moffat?

A. Is this the ship that has come in again?

MR. COVERT: Are you going to mark that as an exhibit?

MR. BRAZIER: Could I just hand this to you, Mr. Moffat, to probably have a look at it and satisfy yourself?

MR. FRAWLEY: You have a free copy, Mr. Brazier?

MR. BRAZIER: Yes. It shows that there is a ship leaving Montreal about November 20th for Vancouver and Victoria with a call at Los Angeles.

THE CHAIRMAN: Is it a Canadian Pacific or Canadian National?

MR. BRAZIER: I am afraid I don't know,sir.Frankly, Mr.Moffat, you are satisfied are you not, that there is actually competition there?

A. No, I don't know enough about the situation to give you a comment one way or the other seriously. What we are suggesting here is that the most reasonable starting point should be the American rates and --

THE CHAIRMAN: Should be what?

A. The American rates from the eastern United States to Seattle, that that should be the starting point and from there on there should be a very careful study by the interested parties as to what deviations from that should be put into effect.

MR. BRAZIER: Why do you suggest that as a standard? We do not use American rates for determining any other

competitive rates in Canada?

A. No, but in that case the rate they are charging presumably is competitive with the same traffic, namely, from the East Coast to the West Coast and if they think that is the rate they need to meet the competition, the competition must be practically the same on the Canadian side.

Q. But it is essentially water competition they are meeting there.

A. Yes, both the Canadian and American.

Q. But if there was no water competition so far as the States is concerned but there was water competition as far as Canada was concerned, do you still think they should be able to meet the Canadian shipping competition?

A. Yes, that would make a reasonable place to start from.

Q. And those are the competitive rates that they should meet?

A. That is correct, yes.

Q. In your brief in several places you speak of out-of-pocket cost, that competitive rates should not go below out-of-pocket costs. Would you tell me what you have in mind by "out-of-pocket costs"? I make this remark before you answer it, Mr. Moffat, that I suggest that there is a very substantial difference between short term out-of-pocket costs and long term out-of-pocket costs?

A. And between the out-of-pocket cost for an individual commodity and the out-of-pocket cost for a group of commodities of a particular type.

Q. When you say the competitive rate should not be below the out-of-pocket cost plus a little bit more, what kind of out-of-pocket costs are you speaking of?

A. Well, it will depend on what you are dealing with. If you are dealing with - take your example, the transcontinental rates. When you are dealing with the transcontinental rates -

Q. Are you going to set up a different standard for the transcontinental?

A. No, the same standard applies, the same test as for any other competitive rate, but you have there a very substantial volume of traffic over a fairly long period in which case you are forced to take into account some of the long run out-of-pocket costs which mean that you get a higher out-of-pocket cost for traffic of that sort than you would get if you were dealing only with an individual commodity on an individual haul.

Q. And you are referring in your brief to both kinds, wherever it happens to fit the occasion?

A. That is correct, that is an administrative decision that has to be made from time to time.

Q. You would leave that up to the Board of Transport Commissioners?

A. Yes.

Q. Now, reference is made in your brief to the fact that about 80 % of the railway operating expenses are now variable with the traffic?

A. The brief does not admit that; the brief says that that is what the railways contend and if that is true, such and such is the consequences.

THE CHAIRMAN: I didn't quite catch the proposition that you set up there.

MR. BRAZIER: I made the suggestion that they had stated in their brief that 80% of railway operating expenses today are variable with traffic and there are only 20% that are fixed regulations of traffic. Mr. Moffat has pointed

out that they are just quoting railways there. They are not admitting the 80%.

THE CHAIRMAN: The railways say that?

A. Yes.

MR. BRAZIER: From your studies on transportation, Mr. Moffat, have you come to the conclusion that the variable part of railway expenses in Canada has been increasingly larger?

A. Yes, then it was ten or fifteen years ago, yes.

Q. Now what does that suggest to you?

A. It suggests a lot of things.

Q. As to the use of the railway?

A. It might suggest a lot of things.

Q. Would it suggest that the railways today are operating more closely to capacity than they were before?

A. Oh yes.

Q. And as the use of the railway becomes more intensified, the amount of the variable costs will increase. Is that correct?

A. Not only the amount of the variable cost but the percentage of the variable cost forming the total will increase, yes. We made that point rather heavily in one section of the brief in the Chapter, "All Rates As Related to Distance" I believe. I think it was in that chapter we had a discussion on that very point.

Q. In your section on transcontinental rates, going back to that for a moment -

THE CHAIRMAN: Yes - "Rates as Related to Distance"

A. Yes, in that chapter there is a discussion of that point.

MR. BRAZIER: In your section on transcontinental rates you start with a long quotation from Premier Campbell and I direct your attention particularly to the second

sentence where it says:

"We are all familiar with the centralization of industry in the Eastern Provinces and the fluctuations in the Prairie economy resulting from its predominant dependence on one major industry, agriculture"

THE CHAIRMAN: What page is that?

MR. McLEAN: Page 121.

A. Yes, I see the sentence.

MR. BRAZIER: And then, going on you say:

"It is our strong conviction that certain features of the freight rate structure have acted in no small way to slow down the development of a potentially large field of industrial activity in the Prairies. In particular, the so-called transcontinental rates, have, in our view given Eastern Canada and the Vancouver area an unjustified advantage which is not available to manufacturers and distributors in Winnipeg."

Now, would you tell me what is meant by "an unjustified advantage"?

A. Rates from Toronto to Montreal to Vancouver and in the reverse direction which are lower than rates from Winnipeg to either of those points, particularly in the past. As in so many of these other things, the situation has been steadily emphasized because the transcontinental rates have been increased.

Q. Did those transcontinental rates, so far as you know, always meet the criteria which you laid down for competitive rates?

A. No.

Q. Have you any evidence of the fact that they did not?

A. We only have the evidence of the fact that they were - I can't quote a precise figure, but they were very substantially below the general average of rates at a time when it was advocated by the railways that something like 70% or 80% of their expenses were variable with traffic. The conclusion that follows directly from that is that if that traffic had been dropped, the railways would have saved expenses greater than the revenue which they would have lost. That does not mean a suggestion that they should drop it; it is a suggestion that they should raise the rates and that probably they would continue to get just the same volume of traffic.

Q. Now, is it not a fact, Mr. Moffat, that in these particular low rates which you speak about, there was a car loading required on the transcontinental rate which was not at all present in the rates to Winnipeg?

A. In some cases, yes.

Q. Well, we have always heard of the famous canned goods example.

A. Almost as famous as the ship.

Q. Your rate was based on a 20,000 pound car and the Vancouver rate was based on an 80,000 or 90,000 pound car?

A. But, as far as the consumer was concerned, he was paying so much for a can of peas or so much per case, as the situation worked out.

Q. But aren't there other factors that offset that? The wholesaler in Vancouver was required to finance a much larger purchase, he had to pay heavier storage charges?

A. There were those factors on the other side, yes.

THE CHAIRMAN: Do you say that these transcontinental

rates are not only unnecessarily low but they are so low that they operate at a loss?

A. Not now sir, but there seems to be evidence that they were at that stage up to a couple of years ago.

Q. Do you still say that they are unnecessarily low?

A. Well, as I pointed out yesterday, I have not been able to get a good story as to what has happened to those rates. The indication is that they are now up on a level that seems to be reasonably satisfactory, but I have not been able to get a complete story as to what has happened to them.

MR. BRAZIER: Do you think, Mr. Moffat, you could give us by further reference another example of rates in the past which have not met the criteria which you have laid down?

A. I can't quote any individual case, no. I have no access to Canadian Pacific or Canadian National records or to any formula that would precisely work it out in dollars and cents, no.

Q. Could I put it this way then, that you are trying to make an independent guess at what the situation was?

A. That is correct.

Q. Now, it is true, Mr. Moffat, that the Province of Manitoba benefits in many of those rates by water competition to Fort William?

A. Very much so, yes.

Q. So British Columbia is not the only area that has the benefit of that water competition?

A. No, not at all.

MR. HUME: Mr. Moffat, you have been kind enough to get some figures as to the registrations of trucks in your province to put into the record for the information

of the Commission and I would ask you to tell me first of all for the year 1948, you have a classification "P.S.V." - public service vehicles?

A. That is correct, yes.

Q. And is that a vehicle carrying goods for hire between cities?

A. Between cities or between the small towns and cities. It is like common carrier trucks.

Q. And how many of these were there in 1948?

A. 789 licensed in Manitoba.

Q. You mean 789 actually licensed - 789 vehicles?

A. I expect it is the same thing. This record is of the number of licenses issued; I presume it is one for each truck. There might be a slight deviation.

Q. Then you have a classification "T" which is a for hire vehicle which is confined to municipalities but may go within 15 miles of the municipality?

A. Yes, in order to get a T license the owner designates his base of operations and is allowed to carry his own products or products for hire within a 15 mile radius.

Q. Of what?

A. Of the base of operation which he designates.

Q. That is not necessarily then a municipality; it may be outside a municipality?

A. I am not sure.

THE CHAIRMAN: Are these regulations not published? Are they not in printed form somewhere?

MR. HUME: They have not been put into the record of these hearings.

MR. COVERT: We could get them.

THE CHAIRMAN: Would not that be much more satisfactory?

MR. SHEPARD: I think, Mr. Chairman, that the Commission Counsel got certain information when they were in Winnipeg.

It was not put in the record and I understand Mr. Hume's questions were for the purpose of getting the figures on trucks and various carriers.

THE CHAIRMAN: But if the printed regulations were before us setting out the rates and so on, then it would be more convenient to analyse them by Mr. Moffat's explanation but he is just speaking in a void now.

MR. COVERT: I understand, Mr. Chairman, it will only take five minutes to get some figures before the Commission about the number of trucks and roughly the area of their operation. That is all we want to hear now.

THE CHAIRMAN: We do not seem to be getting it with any certainty. Mr. Hume wants to know whether there is a municipal limitation on some of the trucks and Mr. Moffat does not know.

A. No, I do know the number of trucks with T licenses and I know that the T license limits them to 15 miles, but I am not sure if it is 15 miles from the border of a city or the centre of a city.

MR. HUME: How many of those trucks are licensed that way - with T licenses?

A. In 1948, 13,568.

Q. Then you have a classification "C.T." which is a commercial vehicle but does not operate for hire, privately owned?

A. Yes.

Q. And how many of those?

A. In 1948, 1556.

Q. And then you have lastly an "F.T." - a farm truck?

A. That is right.

Q. It would carry goods for hire?

A. Not legally.

Q. How many of those have you got?

A. 16,571.

Q. Thank you very much. Now then, one last figure. You have some figures as to the number of Manitoba trucks that are included in international and interprovincial traffic, have you not?

A. We have a number of public service vehicle licenses issued in Manitoba to vehicles operating outside the borders. The total is 73.

THE CHAIRMAN: Outside the border of Manitoba?

A. Yes sir.

Q. Either in Canada or in the United States?

A. Yes sir.

Q. 73?

A. Yes sir.

Q. Have the Canadian Pacific Railway some of those?

Am I right in that?

A. Some of those, I would expect are C.P.R.

MR. SINCLAIR: That is correct, there are some Canadian Pacific.

THE CHAIRMAN: How many?

MR. SINCLAIR: I would say two or three but I wonder if that figure included trans-shipped licenses at the boundary?

A. The information I have is that those were the P.S.V. vehicles operating into Saskatchewan or Ontario or the United States, and one point I should make clear is that I rather suspect that this also includes buses. I would not be too sure of that.

MR. HUME: My instruction or information was that there were 34 such vehicles.. Your figure of 73 would indicate that there might be buses included in that figure. Is that correct?

A. Yes.

The Commission adjourned at 1 P.M. to resume again at 2.30 P.M. this day.
(Page 8856 follows)

OTTAWA, ONTARIO.

Wednesday, November 16th, 1949.

A F T E R N O O N S E S S I O NR. E. MOFFAT - RecalledCROSS-EXAMINATION BY MR EVANS:

Q. Mr. Moffat, before dealing specifically with your brief I would like to put one or two questions to you and get your answers, on matters connected with what you gave in chief as the philosophy of your brief. The first of those questions is this: Supposing that the executive arm of the Government should maintain a power to decide differently than the Board, if that should result -- I am not asking you to agree whether it would result -- if it should result in a tendency to the socialization of the privately-owned railway, which would you prefer?

A. What are the two alternatives?

Q. The alternative is, if -- and I am not asking you to agree whether it would -- if it would result in a tendency to socialize the Canadian Pacific, would you reject your proposal to give these powers to Government over the Board, or would you choose, what you say is desirable, that the Canadian Pacific should remain a privately-owned enterprise?

A. It would depend entirely on how far the tendency was going.

Q. Well, let us suppose the tendency was clear, that it would result in the socialization of the Canadian Pacific, would you choose the socialization of the Canadian Pacific to the other alternative, that the C.P.R. should remain a privately-owned enterprise?

A. You mean by socialization, nationalizztion, taking over completely?

Q. All right.

A. Well, the answer definitely is that the -- it is

stated right in the brief, opposition to taking over the C.P.R. at the present time, under present conditions.

Q. It is not opposition; what I am putting to you is, is that opposition sufficient to overcome your desire for the character of control which your proposal has as its basic concept?

A. I do not see how I can answer that question. It is a question of degree. Certainly the basic position is opposition to complete taking over of the C.P.R.; there is no question of that. On the other hand, the position is that there should be an increasing amount of social control of certain aspects of railway operation and railway rate structure and that sort of thing. I do not think it is possible to give an answer categorically to either of the extremes.

THE CHAIRMAN: Pardon me; let me understand this myself. Are you referring now to the proposed extension of the powers of the Board, or to the proposed extension, the more frequent use of the Government as intervening with the Board and directing the Board? Which do you mean?

MR EVANS: I am referring to the extension of the powers of Government to interfere with decisions of the Board.

THE CHAIRMAN: That is in the printed copy of the Manitoba submission, on pages 55 and 56.

MR EVANS: Yes; there has been a lot of discussion---

THE CHAIRMAN: The heading, though, is, "The Board Should be Considered a Policy-Making Body."

MR EVANS: Yes. I want to get his philosophy, as to whether if he had a flat choice he would prefer the one to the other.

Q. Would you care to answer that question?

A. Well, personally, if you want a personal opinion, it is in favour of private enterprise wherever possible. As far as instructions from Government are concerned, I have no instructions on the extreme choices either way.

Q. So that if it came to a choice, your personal choice would be for the private enterprise aspect of the question?

A. Yes.

Q. Now I want to put the second question: If as a result of the proposals you make the Canadian Pacific could not earn sufficient return to maintain itself as a private enterprise, would you also choose the alternative that the Canadian Pacific should be allowed to earn sufficient to maintain itself rather than to pursue the proposals which you make as to the interference by Government in the activity of the Board?

A. Well, I think that was perfectly clear in the brief, that the railways -- and by that, since the C.P.R. is the yardstick, it really means the C.P.R. -- must have an opportunity to earn sufficient income to pay its expenses and continue to operate as a private enterprise.

Q. Just so that there may be no misunderstanding between us, your choice in that case would be the choice that the Canadian Pacific should have adequate income?

A. Yes.

Q. Now then, you were asked yesterday to say whether you had any views as to what that adequate income should be, and your answer as I put it down was that you had not any specific suggestions to make?

A. That is correct.

Q. I would like to pursue that with you. Could we agree on this, that a private enterprise must normally finance by getting money, through the issue of securities,

from the public?

A. Normally?

Q. Normally.

A. Yes, I suppose normally. There are other methods available, but that is---

Q. Well, I am talking about new money. I see your point, that you may have depreciation moneys in mind and so on, but I am speaking about new money; normally it finances by the issue of securities?

A. And the plowing back of earnings.

Q. Surplus?

A. Yes.

Q. I am talking about new money. Now then, do you agree that private enterprise has to be able to provide a sufficiently attractive return in order that it should be able to raise that new money by the sale of securities?

A. Well, that is exactly the point that was dealt with in the brief.

Q. Can't you answer me that?

A. In these terms, that it might be that the choice would be between providing that level of income which would make it possible for the railways to do that, and carrying with it a level of rates which the country did not feel it could support. That might be one choice. The alternative might be some other method of financing which would not be available to an ordinary corporation. After all, the C.P.R. is not an ordinary corporation.

THE CHAIRMAN: Q. Available to what?

A. To an ordinary corporation.

Q. An ordinary corporation?

A. After all, the C.P.R. is not an ordinary corporation; the C.P.R. is one of the very foundations of the Canadian economic organization. It is not an ordinary cor-

poration; that is the point.

MR EVANS: Q. I do not want to explore this too much at the moment, because I am merely having an introductory discussion with you, but I would like to follow you up on this. If your alternative involves Government loans or Government guarantees for a large capital programme, does it not follow that the deeper the Government gets into the Canadian Pacific the greater the threat to the Canadian Pacific remaining as a private enterprise?

A. Yes, certainly.

Q. So that, since you have preferred that the Canadian Pacific remain a private enterprise, I gather you would agree that that is something to be avoided?

A. Yes, but you always have to consider whether the alternative offers a more serious threat.

Q. Now then, I gather that the basis upon which you say the Canadian Pacific might have to resort to this thing which you agree is dangerous, is that the public may be unable to pay the rates or the level of rates which are charged; is that the point you made?

A. Yes. It might go a bit farther; it might not only be unable, but possibly unwilling.

Q. Unwilling?

A. Yes.

Q. Well, that gets into public opinion?

A. That is right.

Q. So that then what we get down to is this, that if the Board should find that a level of rates of X is required to produce this return, and the Government has the power to say that public opinion believes that the rate of X or the level of rates of X is too high, the Government would then instruct the Board to raise the rates to X minus Y, say?

A. Yes.

Q. And then you would have the alternative, which you abhor, that somebody would have to provide the additional money, and that could only be the Government, by loan or guarantee ?

A. Yes, that is true; that is the logical result.

Q. Then what your philosophy gets down to is that the question as to whether or not the Canadian Pacific shall remain as a private enterprise is boiled out to a matter of public opinion?

A. Yes, any---

Q. As that public opinion may exist at the time?

A. That is true; in any democracy that is where you get to, yes.

Q. So that, despite what you and I think, you want to give public opinion, through the exercise of power to be imposed by Government and the Board, the right at any time to say, "We will take steps leading to the socialization of the C.P.R.?"

A. I do not think there is a question of giving them that power. The Government always has that power in a democracy.

Q. The Government?

A. Yes.

Q. Or Parliament?

A. Well, Government controlling Parliament as it does at the present time, there is not much distinction.

Q. Now, one further question along that line, as to the basis upon which you should measure the adequacy of the return. The Province of Manitoba is firmly against any increase in the last two cases?

A. In the last two cases?

Q. Any increases in the last two cases?

A. No, I would not state the position in terms of being firmly against any increase.

THE CHAIRMAN: Pardon me; did not the Province take that position in those two cases?

MR EVANS: I think they did, sir.

THE CHAIRMAN: Well, it is a question of what they did, not what they would do.

MR EVANS: I hoped that I put the question that way; if I did not, I meant to.

THE CHAIRMAN: The witness answers that he does not think the Province would.

THE WITNESS: No, I intended to say "did", sir; I may have said "would"; I intended to say "did". I could not quote the precise wording of the position, but basically what it was reduced to was that they were of the opinion that the present level of rates was sufficiently high to make it possible for the C.P.R. to cover costs and continue as a private enterprise. It was not flat opposition to an increase.

MR EVANS: Q. I am talking about the fact; in the last two cases the Province of Manitoba has been resolutely opposed to any increase whatever?

MR McLEAN: Because we did not think need was proved by the evidence.

MR EVANS: I just want to get this clear.

Q. And is that still their view?

A. Yes.

Q. Now, if you will turn to Chapter I, page 7, of your brief -- and this will be found at page 47 of the printed brief -- you say:

"This means that in Canada, railways cannot be regarded merely as business enterprises which are entitled to maximize their profits by applying

strictly business principles without regard to regional needs, or national policy."

Now, I suppose that, since your position is that you would avoid the socialization of the Canadian Pacific, what ultimately would be required if there were financial difficulty would be a subsidy?

A. No.

Q. Well, then perhaps I have misunderstood you. You say that in certain circumstances they should not be treated as business enterprises, and that if more money is needed concern must be given to public opinion, as to whether they can pay, and matters of national policy?

A. Yes.

Q. Now then, let us assume that it is clearly shown that a need for money exists, and your public opinion has persuaded the Government that they cannot afford to pay the increase necessary; does it follow in your view that a subsidy is to be paid to the Canadian Pacific to make up whatever deficiency there may be?

A. If those two conditions exist, yes; but it does not necessarily follow that those two conditions are in existence at the present time or will be in any reasonably near future.

Q. I did not ask you to---

A. I understood the first question to be in terms of present; that is why I answered no in the first place.

Q. I think we are clear on it.

A. Yes.

Q. We are not thinking in terms of a specific case; it is a hypothetical case we are talking about.

THE CHAIRMAN: Mr. Evans, you are talking of year-to-year deficits or whatever the case may be?

MR EVANS: I had not differentiated.

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THE CHAIRMAN: Have you left the capital question? I see that at the bottom of page 102 and the top of page 103 it is suggested that capital assistance be given by the Government; is that what you are talking of?

MR EVANS: No; I am talking about the need for current revenue, and I think the witness has said that in the hypothetical case I put to him there might have to be a Government subsidy.

Q. Am I correct in that?

A. Yes; in the hypothetical case, yes.

Q. Now then, when the Government was determining the amount of the subsidy, what would the formula be under which the amount of the subsidy would be determined?

A. Well, that would bring you into exactly the same considerations that you would be involved in in an attempt to decide on what net revenue was required. It would be two aspects of the same problem.

Q. Well, would that be for the Board?

A. It would be, as in all these other decisions, for the Board, subject to directions as to the line of policy within the statute.

Q. And those directions, as you have told me, would depend on popular opinion?

A. Depend upon Government decision as to what was in the best interests of the country, yes.

THE CHAIRMAN: Pardon me; do you mean directions by the Government to the Board as to how they should proceed about planning out what the revenue of the railway is?

A. Well, not so much on the revenue side as on the expense side.

Q. The question was, how would the necessity be ascertained? How would the railway's need for money be ascertained?

A. Well, it would involve the whole problem of estimating revenues.

Q. By whom?

A. By the Board, subject---

Q. You said subject to the direction of the Government?

A. Subject to direction of Government as to the policy, if it was considered necessary to give policy direction on particular points, that this or that matter should be dealt with in a certain way.

MR EVANS: Q. Now, if you will look at page 2 of Chapter 2, which is I should think about halfway down page 50 of the printed brief---

THE CHAIRMAN: Q. May I interject here: Would you make any comparison, any contrast, between what you have in mind and what occurs annually with the Canadian National Railways?

A. Well, as a matter of fact, the view is expressed at one point in the brief here that under present conditions we can see no need for a subsidy.

Q. No, no, but in case conditions change, you see?

A. Well, to express an opinion on that would be purely a personal opinion; it is not anything on which we have any instructions to state Government policy.

Q. Well, are you not qualified to give us a personal opinion?

A. I don't know on that question.

THE CHAIRMAN: Well, excuse me, Mr. Evans.

MR EVANS: Q. Now if you will turn to page 2 of Chapter 2, which is part of page 50 of the printed brief, this statement appears:

"In other words, the competitive operation of market forces becomes a regulator on which the public relies for its protection against any attempt by the producers

or sellers of the service to take advantage of their strategic bargaining position."

Now then, it is implicit in that that competition is a regulator .

A. Yes.

AQ. And it operates in protection of the public against abuses?

A. Wherever competition exists, yes.

Q. So that competition, if it were present in the optimum degree, might be relied upon to prevent the public against high rates; it might not against discrimination, and that sort of thing, but speaking of high rates?

A. Yes, if it existed.

Q. If it existed?

q A. Yes.

Q. I did not ask you to go any further than that. Now then, I think you will agree with me this far, that there is a greater degree of competition with railroads to-day than there ever has been in the past?

A. In some aspects of the operation, yes, but not in a very big majority of railway traffic.

Q. Now, all I am asking you to say is that it is greater to-day than it has been in the past at any time?

A. Possibly. I would not want to be too sure on that, because you did have a time when water competition was much more important than it is to-day. On the other hand you have truck competition, which is more important than it used to be, in another field, and you have air transportation, which is more important in another field. So you have the two fields where competition has increased and one where it has decreased. Possibly the over-all effect is more competition.

Q. More than possibly; it is a well-known fact, isn't

it, Mr. Moffat?

A. No.

Q. You would not concede that?

A. No, not over all, because the majority of the products, the competitive factor is no different from what it was before.

Q. But at least you concede this, that there has been some increase, the over-all effect has been some increase?

A. It may be; not too great, I wouldn't think.

Q. Would you say it was less than it was forty or fifty years ago?

A. As a percentage of the total volume of railway traffic which was subject to competition, I would not want to give an opinion on that, no, because the water competition was a very important element that far back. The type of traffic which now is subject to truck competition was much less important in those days.

Q. But the fact was that something induced the railways to put in competitive rates to a greater degree to-day than has been the fact in the past?

A. I do not think that is true, is it? They have been taking them out; they have been taking them out quite rapidly the last year or two.

Q. I am talking about the present as compared with a period forty or fifty years ago.

A. Maybe so; but as compared with fifteen or ten years ago, they have been taking them out.

Q. Were we at cross purposes as to the intention of my previous question? What I was putting to you was that in the present as compared with the rather more distant past, the time when the Board of Transport Commissioners was formed, let us say, the competition with railways is greater to-day than then?

(Page 8870 follows)

A. It may be somewhat, yes.

Q. Now then, if competition is a regulator, doesn't it follow that where competition is increased the need for regulation has decreased?

A. Where competition has increased, yes.

Q. Now at Chapter 11 on page 3 (printed brief page 50) this statement is made: "The railway industry has always been dominated by a few large firms and in many localities the shippers have been forced to depend upon the one railway which serves that locality. "

THE CHAIRMAN: Pardon me; we have not found it yet.

MR. EVANS: It is about half way down page 50.

THE CHAIRMAN: It begins with "For reasons - -"?

MR. EVANS: Yes and it is about the last half of that little sentence. Now then, would you agree with this, Mr. Moffat, that by and large the vast majority of traffic handled by the railways in Canada is competitive?

A. No.

Q. You do not agree?

A. No. You say, is competition?

Q. Yes, as between the two railways?

A. No.

Q. You do not agree?

A. No.

THE CHAIRMAN: As between the two railways?

MR. EVANS: As between the two railways, yes.

A. Certainly not in the west. I am not familiar with the east but in the West the vast majority of the traffic is handled by railway stations which happen to be near the farm and there is only one railway station in a great many districts.

Q. I am talking about volume, not points?

A. The volume in the West is grain to a very large extent.

Q. And your view is that the vast proportion of the total volume is not competition between the two railways today?

A. Yes.

Q. Now then, I think you will agree with this, that in the United States the condition of two substantially large railway systems does not exist?

A. That is correct.

Q. There are a very large number of very large railway systems?

A. Yes, so I understand.

Q. And would it be fair, from your study of the situation, to suggest to you that the competition between railways as such in the United States is greater than it is in Canada?

A. Yes, very much so, yes.

Q. Now I suggest to you that despite that increased competition the rates in the United States are higher than they are in Canada?

A. And so are the costs of operation, yes.

Q. Yes, but I suggest to you that you have rather taken the view that the cost of operation is not the guiding principle if public opinion thinks otherwise?

A. Well, the two have to inter-act. You can't ignore either one.

Q. So that all I am putting to you now is that the fact of their being two large railway systems in Canada as compared with the United States where there are a large number, has really not resulted in a higher level of rates relatively than in the United States?

A. Well, the point is not one of competition. There

are dozens of other factors that are much more important than the difference in the degree of competition and that have to be taken into account on any comparison of rates in the two countries.

Q. But we are really concerned at the moment with a monopoly aspect. The case for operation, if it is a factor, is not something we are talking about here. I am talking about the protection of the public from the monopoly aspect of the railway operation, and I am suggesting to you that is obvious that the fact of there being two large railway systems in Canada has not operated to produce a higher level of rates than in a country where there are a large number of railway companies?

A. Well, that one factor has not, no. There are too many other factors involved in the comparison for it to have any relevance at all.

Q. Then we can agree that it does not follow, where you have two large railway systems, that the monopoly aspect is an extremely important element in determining the level of rates?

A. It certainly does follow that where you have two large railways, the monopoly element is an important factor.

Q. Well, I thought we had agreed that the cost of operation had a good deal to do with it?

A. It does, yes, but there are some other things that are important as well.

Q. Now then, do you suggest that the monopoly aspect of today in Canada is more pronounced than it was in, say, 1903?

A. That is the same question in reverse I was asked a few minutes ago. I can only give you the same answer.

I am not too sure. I rather think that for most of the commodities in which the West is primarily concerned, it is just exactly the same as it was then.

Q. Then, on page 6 of Chapter 11 -

THE CHAIRMAN: What page here?

MR. EVANS: I will just have to find it. It is on page 52 and it is on page 6 of Chapter 11. I just want to get enlightened as to what you mean by a sentence at the conclusion of the paragraph at the top of page 6 of Chapter 11 immediately before the section beginning "Railway regulation under the Board of Transport Commissioners"?

A. That is the very last sentence?

Q. Yes.

A. "A re-alignment of interests - "?

Q. No, the one before that; "With the disappearance of some of the risks attendant upon the initial construction of the railway, a scaling down of the financial returns of the company was sought." I am just looking for enlightenment as to what you have in mind there?

A. I think that is clear. At the time when the railways were being built the idea that is developed through this section is that the primary interest of the people, particularly in the West, was to get the railways in there and to get facilities available, and then once the railways came in and began to have a volume of traffic and began to be reasonably stabilized, the public began to say: "Well now, they are making too much money. Now we will have to cut them down".

Q. What I wanted to get from you was where. do you think that first began? Where do you think they first began to seek a scaling down of the financial return of the company? You must have something in mind.

A. No, no specific incident in mind except the

general fact that there was agitation that was growing. You have the actions by the old Manitoba Government at the time to get new competing lines in; you have the general wave of **complaint** against the C.P.R. of profiteering which brought about the McLean Report. Charges of profiteering were made and have been made periodically ever since.

Q. You suggest that was why Professor McLean made that report?

A. That was one of the factors involved.

Q. I thought discrimination was involved?

A. That was another factor.

Q. Is there a mention in the McLean Report about the charges of profiteering?

A. I have not studied it that closely.

Q. I read it several times recently but I don't recall any mention of it at all?

A. I have not read it that close

Q. You say you cannot say at the moment at which time a scaling down of the financial return was sought?

A. No.

Q. Now then, at page 10 and the page in the printed brief is near the end of page 54, the sentence reads this way: "The function of the regulatory body must be not only to prevent abuses of particular types but must go further in that a larger measure of positive direction is required. That this should be true must be obvious to anyone who is aware of the differences of opinion not only between the railway companies and the public at large, but also between various sections of the public". Now just in order to get clear for me, are you suggesting by that that where differences of opinion exist in rate cases before the Board, that this is the time when a greater degree of

executive direction is needed?

A. No.

Q. Well now - "That this should be true must be obvious to anyone who is aware of the differences of opinion - ". Now doesn't it follow from that that the differences of opinion give rise to the need of this more positive direction?

A. No, I don't think so. The differences of opinion are only evidence of the fact that there still is dissatisfaction with the way the rate structure now exists and that the present regulation has produced a rate structure with which the public is not satisfied. The fact that the Board should be taking more initiative arises not from the fact that those differences exist, but from the fact that the public is interested in seeing certain things done which are not being done, whereas in the past they were more interested in preventing things which someone was proposing to do. The distinction we are drawing today in several points is the distinction between a negative approach and a positive approach.

Q. So, when you speak of "positive direction" in that context, you mean the positive direction by the Board taking the initiative and not a direction from the executive arm of our Government?

A. It may be either way.

Q. Well you see, there is where my difficulty comes in understanding your brief. I interpret that brief, and I want you to tell me if I misinterpret it, that you feel that because there are differences of opinion developing in these cases, that produces an obvious need for an increase in the positive direction through the Governmental power?

A. There are differences of opinion between people

who ordinarily do not have any method or any way of getting before the Board. You have the old concept that the railway proposes to put in a rate or that the railway proposes to abandon a rate and the Board could have it taken out or forbid that action to be taken, but now you have differences of opinion between shippers in western Canada and shippers in Eastern Canada. The sort of action that is required is direction to the railways to bring in these kinds of rate or to equalize this rate or to equalize the class rate.

Q. By the Board?

A. Direction by the Board, yes.

Q. I thought you said also by the executive arm of the Government?

A. Well, if the issue is of sufficient importance, the suggestion is that the Government should have the right to direct the Board to take action, but normally the ordinary routine procedure would be for the Board to do it.

THE CHAIRMAN: Who determines the exigencies of the question?

A. The Government.

Q. When should the Government interfere and why?

A. Within whatever limitations are laid down in the statute.

Q. But what do you want to put in the statute? That is the question, because I have in mind (this is not the right place to bring it up) but I have in mind what you read yesterday where you said that the Dominion Government should not directly deal with the day to day administration of the Board.

A. That is correct .

Q. It seems to me that the paragraph seems to imply that it should intervene on almost every other occasion:

"But not without the benefit of detailed study by persons who are in close touch with the matters concerned".

A. Well, it seems to me sir, that that is the way a Government department will always operate.

Q. Well, it is not the way they operate now?

A. No.

Q. Well you said "always"?

A. It is not a Government department under the present arrangement.

Q. I am taking Mr. Evans place but I think it is important. Are you now proposing that the Board of Transport Commissioners should be transformed into a Government department? That is very important you see. We now have the Department of Transport.

A. Brought back to a point where it would have some of the characteristics of a Government department and less of the characteristics of an independent Board.

Q. Like they had before 1903?

A. The proposal here would be bringing it back, undoing to some extent the 1903 changes.

Q. Before the Board was created?

A. Yes, the suggestion would not by any means be bringing it back to the same extent that it was before, but it would be coming back to some extent.

COMMISSIONER INNIS: How would you protect it from the possibility of increased political pressure in those circumstances?

A. That is the problem and there is no denying it. The question is which is the more serious problem, to have a board that is irresponsible in a sense, not responsible to anyone on the one hand, or to have political interference on the other. Which is the greater difficulty, and which is the more undesirable thing? It is one of the fundamental

problems.

THE CHAIRMAN: You solve that, as I understand you, by saying you turn the Board back into being a department of the Government?

A. It would not be completely a department of Government but they would have some of those characteristics and less of the characteristics of an independent board operating entirely under statute. It never has been entirely independent of Government.

Q. No, there is an appeal from its decision to the Government, of course, but do you know of any other case in which it is not independent?

A. Well, that is the one important case.

Q. Is it not intended to be independent and impartial? Is that not why it was created?

A. I think that was why it was created, yes.

Q. And does it say with that there should be a sufficient element of government responsibility maintained by providing for this appeal?

A. That is correct.

Q. But in any event, as I understand your case, that is not sufficient. You think the Government should have to take a more active continuous part in what the Board is doing?

A. A more active part but not completely continuous.

COMMISSIONER INNIS: You have no comment to make on the political influence on the appointment of the Board?

A. That would not be anything new, sir; that has been with us from the beginning of the Board.

THE CHAIRMAN: How would you then have them appointed? Somebody must appoint them.

A. There was no suggestion of any change from the present method.

Q. You see, you say in that very important page;
"At the same time no one can accept the proposition
that policy decisions in such an important field
as this, should be final if made by a body other
than the Dominion Government. The ultimate
responsibility for public policy must rest with
the Government."

You see it gives us some concern to know just what
you want us to do with this Board?

A. I don't think in the ultimate analysis it rests
anywhere else now except that it rests in the hands
of Parliament to change the statute. The proposal here is
that certain of the policies should be laid down in the
statute as they are now, but there should still be room
for other or more detailed policies for policies which had
to be changed from time to time to be handled by Orders-in-
Council, but in the fundamental aspect any board is subject
to direction by Parliament.

COMMISSIONER INNIS: Have you rather lost confidence
in the Board because of the character of its political
appointment or have you anything to say on that subject ?

A. I don't/^{think} anything suggested here would change that
in the least.

Q. Do you feel that is a fact?

A. I don't think that is too serious really, because
a Board that is dealing with this kind of problem has two
problems -

THE CHAIRMAN: But the question Dr. Innis asked you
was about the mode of appointment of the members of the
Board.

A. That was what I was coming to, that a Board of this
type has two problems to deal with. As Professor Angus

pointed out yesterday it has the problem of expert knowledge. It has got the problem of judging what policy should be adopted in the light of that expert knowledge and in the light of the public attitude and public views. Secondly, your Board cannot be entirely an expert Board; it must have the other kinds of considerations in mind.

Q. And who should appoint the members of the Board?

A. The Government.

Q. You do not see any way of departing from that?

A. There is no suggestion of departing from that.

MR. EVANS: Then, if I may pursue that for a moment with you. I suppose that your view would be this, that the personnel of the Board, whether technically proficient or not, should be of the highest calibre and should have two characteristics - impartiality and the ability to apply a judicial mind to the problem?

A. That is right, yes.

Q. Now then, with this over-riding power of Government to deal with questions of policy, would there not be a tendency for this desirable impartial and judicial tribunal to consult the Government before hand as to what the policy would be?

A. Yes, to some extent that would be undesirable and to some extent desirable.

Q. And if there was an issue of public opinion, the impartial and desirable aspects of the tribunal would disappear, wouldn't it, and you would be then be reflecting the Government policy which is in token a reflection of public opinion?

A. If there is a sufficiently strong attitude there is a change instatute today. That would be no different than what it is now except that it might move more slowly. In the one case you would have a change in statute and in the other case it could be done by Order-in-Council but in the fundamentals

it would still be true.

Q. You do not make any fundamental distinction between the power of parliament and the power of the executive arm of Government?

A. Well, so long as the executive arm is staying within the limit laid down by statute, I do not see there is any conflict.

Q. I thought it was more or less agreed that we had put up with in the war a very undesirable form of Government by Order-in-Council?

A. I don't think so. I don't think everyone is agreed, no.

Q. Would you be one of those who would agree that that was undesirable?

A. It has undesirable aspects. The alternative has undesirable aspects too.

Q. You do not think it is desirable that Parliament should act rather than the Government?

A. I do not think it is possible that Parliament could act in every case.

Q. Now then, I suppose the extent to which this need for Government intervention comes about is because of the importance of the problem?

A. That is correct.

Q. Now how would you compare in importance the need for criminal law and the need for a reasonable level of freight rates? I am quite serious about this.

A. I am too; I should not laugh. I don't know; it is important to have a criminal law, yes. It is important to have a reasonable level of freight rates, yes. What criteria decides which is the most important I don't know.

Q. Well, at all events we must have a criminal law?

A. Yes.

Q. And I suppose you will agree with me that we must also have our civil property rights protected? Nothing could be much more important than those fundamental things, could it?

A. Yes, but both must be protected within limits laid down by the State as a whole.

Q. Now I am suggesting to you that we have left our rights under the criminal and under the civil law to the courts and that there is no intervention by the executive arm of Government with the courts, and do you not see the suggestion I am making to you, that in the one case Parliament can change the civil or the criminal law, but once that law is established in statute, a judicial tribunal, entirely unapproachable by the executive arm, decides the right of the party. Do you think that is desirable or undesirable?

A. I think it is absolutely indispensable where it is possible to lay down what the rights of the party are and that is what is done in the Criminal Code. The rights of parties are precisely defined. You can't possibly lay down any statute showing the great majority of the issues that are involved here.

THE CHAIRMAN: You think the rights of the party are precisely defined in our common law?

MR. EVANS: That is exactly the point, sir.

A. That is what they tell me.

THE CHAIRMAN: You will have to tell that to somebody else.

A. But there is that fundamental distinction, that there are certain things you can lay down precisely in statutes and other things that you cannot lay down in statutes where there has to be administrative direction.

MR. EVANS: You do not make a distinction in the case I make?

A. I make a fairly strong distinction, yes. The

Criminal Code is entirely a different type of problem from this, and civil rights and all that sort of thing are matters that are quite separate and distinct.

Q. Separate and distinct from what? I am talking about a court, for instance, deciding in a given case whether there was negligence, and do you say that all the rules going into the decision as to whether there was negligence in a given case are laid down in statute?

A. In statute or common law, according to the theory yes.

Q . But they were decided by common law in the courts and those principles laid down.

A. But overruled by the state if public opinion demanded that they be overruled

Q. By the executive arm of the Government or by Parliament?

A. By Parliament, yes.

MR. McLEAN: But even in the initial stages of the proceedings the Attorney General can set the proceedings so there is some interference.

(Page 8891 follows)

MR. EVANS: Page 56 -- 57 of the printed copy. There is a sentence put in this way

"It is true that a properly constituted Board which is aware of its functions and responsibilities, will generally arrive at decisions which are quite consistent with the public interests."

When you say "aware of its functions and responsibilities" you mean they first perhaps consulted the executive arm of government to see what the policy of the executive arm of government would be. Is that what you mean by that?

A. Well, the phrase "aware of its functions and responsibilities" might be a bad choice of words.

Q. I am not quarrelling with your language.

A. I am not trying to define it precisely, but the thought that is in mind is that a Board which takes into account the best expert advice it can get and also takes into account the fact that it is deciding things in the public interest and using its best judgment within the range of statute, will in nearly every case come to a conclusion that is quite consistent with any directive that it would get from ^{the} government with the result that the government would never interfere with its regular conduct of the business.

COMMISSIONER ANGUS: One of the difficulties, I think you will agree, is that if you have that fear that they may be going contrary to policy, then you have the tendency to get more and more into a position where you consult that policy before you take action?

A. That is correct.

Q. Now then, further down the page at the beginning of page 57 of the printed copy, you say:

"...we remind your Commission of the many questionable aspects of the 21% judgment of the Board of Transport Commissioners. . ."

I don't want to go through that with you, but might I suggest to you that that is a little pontifical -- "many questionable aspects". You mean, questionable from the standpoint of Manitoba?

A. Questionable from the standpoint of the general welfare of Canada as it was interpreted by the Government at the time.

Q. As it was interpreted by the Government of Manitoba?

A. No, by the Dominion Government at the time, because they directed it back.

THE CHAIRMAN: What had the Dominion Government to do with this?

A. When it was brought to them by way of appeal they sent it back and asked for reconsideration of a fairly long series of points, which indicates that they thought there was serious doubt as to whether those particular points anyway were in the best interests of the country as a whole.

MR. EVANS: So that what you mean as to the questionable aspects of the judgment, are those matters which the Order in Council referred back to the Board of review?

A. Yes, I think so.

Q. And you think that all of those were on the level of public importance, that under your new scheme of regulation would have been matters for the intervention for the executive arm of Government?

A. Well, they would have been matters of sufficient importance to justify intervention, but they would not

necessarily have called for intervention if the general line of the decision was consistent - -

Q. With public opinion?

A. With -- well, public opinion or public policy, whichever you like.

Q. Now you spoke of the unfortunate situation which would have existed if that position had been allowed to remain final?

A. Yes.

Q. What unfortunate situation -- you mean the rates might have been slightly higher than they should have been?

THE CHAIRMAN: Would you please repeat that? I was talking --

MR. EVANS: The brief refers to the unfortunate situation which would have existed if that decision had been allowed to remain final, and I was asking him what he meant by "unfortunate situation".

THE WITNESS: Well, there are probably two or three things. One, the rates would have been higher at the present time. Secondly, the profits of the railways would have been higher which would have probably led to an increased agitation for some more drastic type of control over the railways.

Q. The unfortunate situation then is not so much the misfortune of the freight shipper but the extent of the agitation that might have resulted.

MR. FRAWLEY: And a bad precedent.

THE WITNESS: And the risk, from the railway point of view, that the agitation would have led to nationalization. I am not saying it would have, but it would have increased that risk.

MR. EVANS: In other words, one of the

unfortunate situations that might have arisen if the decision had been allowed to be made final, is the risk of a tremendous outcry by the public at large?

A. Yes.

Q. But not, surprisingly to me, an outcry by the shipping public?

A. No, not by the shipping public, because the shipping public don't pay the freight rates.

THE CHAIRMAN: The shipping public don't what?

A. They don't pay the freight rates.

MR. EVANS: Never?

A. No, very, very seldom. I would not say never, but in the great majority of cases the shipping public, in the sense of the company that pays the actual freight bill simply adds it on to its price.

THE CHAIRMAN: I see what you mean.

A. So that the level of the freight rate does not affect them particularly.

MR. EVANS: Then the shipping public would include the farmers of western Canada?

A. There would be an outcry from the farmers of western Canada, there is no question of that.

Q. And you say the shipping public never pays the freight rates?

A. I suppose I was speaking too quickly there, but in the great majority of cases it is passed on.

Q. Yes, well, I was going to suggest that it is rather strange that among the shipping organizations there was less outcry and opposition than from political groups.

A. Yes, and that is the risk. The shippers' associations, except for their relative competition,

simply added it to the price and passed it on.

Q. Now, on page 15 of Chapter II, page 58 of the printed copy, there the brief asked that the Board should be freed from the restrictions of its previous decisions. Am I right when I interpret what you said yesterday as meaning that there had to be some kind of continuity of principle running through the Board's decisions?

A. Yes.

Q. And that the justification for departure in a given case would depend upon changing conditions?

A. Yes.

Q. Have you been advised by your counsel that it is not the law today in connection with the Board's decisions?

A. I have not been advised that it is not the law, but there are a good many evidences that the Board of Transport Commissioners refers back to its old decisions and says, "Such and such a matter was decided in 1914, therefore we apply that principle today," without considering as to whether conditions have changed in the meantime.

MR. EVANS: Yes, I just turned up, as a matter of interest, my lord, a decision of the Board itself in Toronto vs. C.N.R. and C.P.R. It appears in 63 Canadian Railway and Transport Cases at page 270. The section I wanted to read is at page 270, but the judgment begins on 261.

THE CHAIRMAN: Pardon me, give me the year first.

MR. EVANS: That was in 1948. It was a grade separation case. The facts are not really important, but the decision at page 270 says this:

"It is true the Board is not bound by the general principle it has established. It is quite free to review it at any time if circumstances are such that it would make it appear fair and proper so to do.

There is another reference at page 271 where the Assistant Chief Commissioner goes on to say:

"I do not think that in the case before us there has been shown to the Board any special set of circumstances or any factor the Board has overlooked or that has not hitherto emerged requiring the Board to depart from its former ruling."

It is quite obvious from that, it seems to me, sir, that the Board does not consider itself bound if changing conditions, changing facts or circumstances require a change of view. It does change its decisions and indeed the Railway Act in Section 51 gives it the power to review, vary and alter its decisions.

THE CHAIRMAN: That is in particular cases, of course.

MR. EVANS: Well, matters of principle, it will not consider itself bound if conditions have changed.

THE CHAIRMAN: Yes.

"The Board may review, rescind, change, alter, or vary any order or decision made by it or may rehear any application before deciding it."

MR. EVANS: I would think it would be found that the consistent decisions of the Board are that it does not consider itself bound.

THE CHAIRMAN: That is what you read.

MR. EVANS: Yes, and I think it is consistent with the position for many years, but they do say this, that he who says "we should not be bound by previous

decisions must show a change in conditions," and that, I gather, is all Manitoba wants.

MR. FRAWLEY: No, no.

THE WITNESS: But, Mr. Evans, you have this sort of thing. I am just marking here evidence from the Mountain Differential decision. I do not seem to have the exact reference here, but it is the latest decision on the Mountain Differential case, at page 6 of the printed judgment, beginning partway through a sentence there, at the top of page 6,

"... while it is not possible to determine the basis on which the mountain scale is revised in this decision. . ."

That is a reference to the 1922 decision.

"- - these words appear at page 170 of the report cited above, namely --

'Following the reasoning in the Western Rate Case'" --

That is 1914, is it not, the Western Rate Case.

"-- a revision in the Mountain scale as provided for in the Pacific standard is justifiable. On careful consideration, the reduction hereinafter provided for should be made; the Board does not sefeel justified in going any further.

'The rates of the new "Pacific" standard mileage tariff are to be constructed by applying to the "Prairie" standard tariff for distances up to and including 750 miles (the approximate maximum haul in British Columbia) $1\frac{1}{4}$ miles for 1 mile, and to the rates so produced the 25-mile differences of the "Prairie" standard scale . . . to be added for each 25 miles

over 750 miles, so as to produce standard through rates for part Mountain and part Prairie hauls."

That is the end of the quotation from the previous decision and then it carries on this way.

"I am of opinion that the only basis for this decision was that the volume of traffic in the Province of British Columbia had so increased from 1914 to 1922 that, following the Western Rates Case in 1914, the Board felt justified in directing this reduction. What principles guided the Board in making that reduction? There had been no changes in the physical aspects of the mountain territory itself. The mountains were still there, and the operating costs of providing the "short-cut" referred to ^{by Mr. Spence} in his ingenious argument had not decreased. The condition justifying the reduction which must have been given consideration and effect to by the Board was the greatly increased volume of the traffic which had occurred since 1914."

Then it goes on, omitting a short section, in this way:

"I have caused a careful search to be made of the files, evidence and other documents relative to both the Western Freight Rates Case and the Reduction of Rates Case, and have failed to discover any indication as to any other factor which prompted the Chief Commissioner in 1914 to establish or standardize the mountain differential as of that date at $1\frac{1}{2}$ to 1, or which prompted the Board to reduce that differential to $1\frac{1}{4}$ to 1 in 1922."

Then it goes on with further discussion and on page 7:

"There is, however, sufficient in the evidence--"
And this is where it has reference to the evidence in the recent case.

-- and in the exhibits for us to warrant the conclusion that the volume of traffic now being carried over the railways in British Columbia is so much greater than it was in 1922 or in 1914 that there is no justification for the retention of the mountain differential."

Now, the indication of that is that they have applied the old decision, they have made a careful study of the old decision and come to the conclusion that the only reason for that decision was that the traffic volume had increased. Since the traffic volume has increased since 1922 there must be a further reduction in the rate. That is the rationale of the thing. No analysis of whether that increase in traffic volume led to increased costs; no analysis of what the effect was on the total revenue position; no analysis of whether there was a larger net revenue or a smaller net revenue resulting from it. Simply the old 1914 case quoted. That is the situation in spite of the other type of statement which you will find in the --

MR. O'DONNELL: That merely proves they can change their mind.

MR. EVANS: It proves my point, my lord. I could also add that in 1925-27 they considered whether the mountain differential should be retained. They reached the conclusion that it should and in the later judgment they changed their mind because of changing conditions.

COMMISSIONER INNIS: I wonder whether among

those conditions you would care to say there was one referring to the political problem, that the election would have some influence?

A. Yes, there was no question that that was involved in that way.

Q. That would be your view?

THE CHAIRMAN: Is that public opinion?

A. That is one of the unfortunate characteristics, yes, that goes with it.

COMMISSIONER INNIS: Because the appeal to the present Board is exposed to the sort of political difficulties which --

A. Any Board that is dealing with an issue of this magnitude and this importance will inevitably find itself involved in political difficulties, yes.

THE CHAIRMAN: Would that not rather lead to a request to be dissociated rather from the Government than to be put closer to it?

A. That factor does exist, but the alternative, if you go too far the other way, you get into further difficulties that seem to us more serious.

(Page 8900 follows)

MR. EVANS: Q. You have no views as to whether some of the duties which you would have placed on the Board, or for which you would make the Board responsible, might not be put in the hands of the Department of Transport? That is not to be inferred from anything you have said?

A. No. We have not given any consideration to that problem at all.

Q. Look at Chapter III, page 2, and page 60 of the printed brief: the words near the beginning of page 60, and about half-way down in the mimeographed brief on page 2. In speaking of the duty and responsibility of the Board to determine the level of rates, you say:

"That duty cannot be carried out satisfactorily if the Board takes the attitude that the railways can provide whatever standard of service they choose, and that the Board's function is limited to determining the cost of that service and setting a level of freight rates which will meet that cost."

Do you think the standard of service in Canada today is too high?

A. No.

Q. Do you think it is too low?

A. No; I do not have any comment to make on the standard of service, either way.

Q. Is there any suggestion there that the Board, in the recent rate cases, has merely taken the attitude that the railways can provide whatever standard of service they choose, and that rates have been set on that basis?

A. The point has been made here -- I am not sure exactly where -- that so far as the standard of service is concerned, the railways' decision will be satisfactory

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in most cases to the public; and that the question only arises in case there is a proposal for a specific improvement which is going to call for a substantial increase in rates.

Q. I am talking now about the recent rate cases. Do you think the Board erred in doing as it did, accepting what the railway officers thought was a proper standard of railway service?

A. Yes, without making a thorough analysis of it.

Q. Do you say that the standard is too high on which they fixed the rate in those cases? You must have considered this, surely; your technical staff has been on this for some years.

A. There is no suggestion intended there that the standard is either too high or too low. But there is a suggestion which has been made several times in the rate cases, that there should be a study to find out whether it is being improved, and at what rate.

Q. Do you suggest that the Board did not make a study in these rate cases?

A. The indication is that they did not, yes.

MR. McLEAN: It is quite clear.

MR. EVANS: Q. I suggest to you, and I give this for the information of the Commission as well, that the Board made an independent study; and that they obtained a great deal of information from the railways, which the Board expressly asked us not to give to the provinces.

THE CHAIRMAN: Not to give to whom?

MR. EVANS: Not to give to the provinces; and that was the only reason the provinces were not informed about it. But it is in the record.

MR. McLEAN: Isn't that a fine thing.

MR. EVANS: The provinces asked for information from their people; and the Board made an independent study.

THE CHAIRMAN: Did they do this before or after the argument?

MR. EVANS: During the hearings. We do not know what use they made of it. We have never seen any report. But they also ordered us to supply information to the provinces, and we think the provinces were completely satisfied that we had supplied all the information they needed for their study. But the record speaks for itself.

I shall be glad to look it up. We asked the Board whether they wanted this information supplied to the provinces, and they said no, that the provinces could have whatever they thought was necessary, and they got it.

MR. McLEAN: I would point out, on this one matter here, the remarks of the Chief Commissioner in the 20 per cent judgment at the bottom of page 11, under the heading of "(3) Maintenance Costs and Deferred Maintenance," where he said this:

"On the hearing of this application the applicants restated and brought up to date their evidence and exhibits with reference to maintenance costs. I think that these maintenance costs will require further study before any decision can be given, even assuming that the requirements of the Canadian Pacific Railway are to be accepted as the yardstick for a further increase in freight rates."

MR. EVANS: The Commission will find, in Exhibit 49-153, some correspondence.

THE CHAIRMAN: What exhibit, not herein?

MR. EVANS: In the 20 per cent case, some correspondence relating to the supply of information at the conclusion of the case, in the 20 per cent case; and that correspondence indicates that the railways then supplied all the information that the provinces wanted on the question of maintenance, for the study they were making.

MR. MacPHERSON: Mr. Chairman, I do not want to re-try the 20 per cent case here again; but if my friend wants to go into this aspect of it, then there are certain aspects which will have to be re-tried, not only the record of correspondence, but the record itself.

THE CHAIRMAN: Would such an inquiry lead us into any position that would be profitable to us?

MR. MacPHERSON: I do not think it would, Mr. Chairman. And that is why I say that I do not feel like re-trying the issues which arose in that case, here, now.

MR. EVANS: There have been so many suggestions in this brief that the Board made no study; that there was no information on this, or no information on that, that I thought I owed it to this Commission, when I run across a case of that kind, to draw it to the attention of the Commission. The suggestion is that the Board simply sat back and did nothing; and it later suggests that the railways did not give the provinces any information about these things.

I would not want to have that suggestion left on this record; and I also agree with Mr. MacPherson that I do not want to have to rehash it.

History of Information

The history of information is a long and complex one, spanning thousands of years. It begins with the earliest forms of communication, such as cave paintings and oral traditions. As societies grew and became more complex, the need for written records became apparent. The invention of writing, around 3000 BC, marked a significant turning point in the history of information. This was followed by the development of various writing systems, including cuneiform, hieroglyphs, and the Latin alphabet. The printing press, invented in the 15th century, revolutionized the way information was disseminated, making books and other printed materials more widely available. The 19th and 20th centuries saw the rapid advancement of communication technologies, including the telegraph, telephone, and radio. The most recent decades have been characterized by the explosive growth of digital technology, which has transformed the way we store, access, and share information. The Internet, in particular, has created a global network of information, making it possible for anyone with access to a computer to share their knowledge with the rest of the world.

The history of information is not just a story of technological progress, but also a story of human ingenuity and the desire to communicate. From the earliest cave paintings to the most advanced digital technologies, humans have always found ways to overcome the limitations of time and space in their quest for knowledge. The history of information is a testament to the power of human creativity and the importance of communication in our lives. As we continue to push the boundaries of what is possible, the history of information will undoubtedly continue to evolve, shaping the future of our society.

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Q. Now then, Mr. Moffat, I would like to ask you this question about standard of service: How would you suggest that the Board should decide on standard of service?

A. I do not think there is any necessity for them deciding, exactly, the standard of service. There is no suggestion that they should decide exactly the standard of service, but they might conceivably be faced with a situation in which there was a suggestion that the line should be built up to a certain standard of service, and that they should say that that standard of service is too high, will cost too much, will lead to a level of rates which we do not think should be put on the people of Canada. But that does not mean that they need to decide what is a proper standard of service. That means that they would say: That particular standard is too high.

Q. Does that mean, in your thinking, the Board would not have any regulation laying down standards?

A. They would have their minimum safety standards, which, presumably, would be considerably lower than those that are there now.

Q. Those that remained?

A. Yes.

Q. There is no new regulation laying down standards?

A. No.

Q. You are quite clear on that?

A. Yes, absolutely.

Q. And anything in this brief which would suggest otherwise, you do not want interpreted that way?

A. No. There is no suggestion at all.

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Q. Supposing there was no overnight service, let us say, between Montreal and Toronto, for freight; and the railway wanted to establish that service, because there was a demand for it from the shipping public. Would you suggest that the Board might, in such a case, say to the railways: You should not establish that service; it is an extravagant thing?

A. No.

Q. No. So you would not have any condition arising where the railways would have just to go to the Board and say: Please, may we establish this kind of service?

A. No. That is one thing which must be absolutely protected against. It would not work.

Q. Then, when the rate cases came, and it was advocated on behalf of Manitoba, and, perhaps, on behalf of Mr. MacPherson's province, that the standard was too high, and that it was costing too much money for railway service, and the people of Canada could not pay for it, then, what would you suggest the Board should do? Should it require the railways to cut down the standard to some level, let us say, to save \$10 million? Or how would the process work?

A. It would work by the Board saying: This is a level of rates which we think will give you enough money to provide the standard of service which we think the people ought to be glad to pay for. You go ahead.

Q. How would the Board know? Do you mean that they would just say: This is too expensive by \$10 million. You go out and save \$10 million?

A. The mechanics would be to look at the standard they are to meet; see how much it cost; see how much of a rate increase might be called for, or how much of a

rate reduction might be called for, and then say: This is going to call for a 25 per cent rate increase, it may be. We do not think there should be anything more than 20 per cent authorized. And the railways would cut their standards down to fit.

Q. Wouldn't they have to know where the standards could be cut? Wouldn't they have to know the individual cases where savings would be possible?

A. I do not think it would be possible for them to know.

Q. All you are saying is that the Board would cut the maintenance and operating budget of the railways by some arbitrary amount, and then tell them to go out and save it?

A. No.

Q. The alternative seems to be that they must be able to tell them where they are going to be able to cut down.

A. No, I do not think it is necessary to go to either of those extremes.

Q. Then tell me what you think they should do, as a practical matter?

A. As a practical matter, they would say: This is the level of rates which we are authorizing, and would give you so much money. You carry on from here.

Q. In other words, you get so much money less than you need for this standard. You go out and find places where you can save it.

A. That is what it might come to, yes.

Q. Of course, that is what I put to you.

A. Surely, the only alternative conceivable is to accept whatever the railways asked for; and no one could possibly suggest that the Board, acting in the

public interest, should not have the right to say: We do not take the railways' information automatically and simply calculate the result out, and add it on to the freight rates.

Q. Did I suggest that to you?

A. No. But isn't that the alternative to what I am suggesting here?

Q. When I suggest that to you, you might ask me that question. But I have not asked you that question.

COMMISSIONER ANGUS: Q. Is there not a difference in the method of approach? In the one case, we have people coming forward and saying: Here is a wasteful standard of rates. Something is being done which should not be done. This points to an opportunity of saving.

But I understand you want to say: The people of Canada are willing to pay only so much. Give them the best you can at that price.

A. I think it is that latter suggestion. When you are into a rate case, when there is an application for a change in the level of the rates, it has to be that latter position.

THE CHAIRMAN: In that case, who would speak for the people of Canada?

MR. O'DONNELL: Manitoba!

THE WITNESS: That is the function of the Board.

THE CHAIRMAN: Q. I thought you meant somebody who would speak to the Board.

A. No.

Q. The function of the Board, you think, is to find out what the people of Canada think?

A. If they are trying to run a public policy, to

decide what is in the best interest of Canada, certainly they would have to find out.

Q. You mean to say: What the Board thinks is in the best interest of Canada?

A. Yes.

Q. Notwithstanding what some public clamour may?

A. They cannot follow, automatically, public clamour, no.

Q. The Board itself must decide what is in the best interests of Canada?

A. Say what they think is in the best interests of Canada.

MR. EVANS: Q. Now then, would you not agree that, in order to determine whether they were doing substantial justice, they would need to have some idea where the possibility of saving lay, would they not?

A. Yes. They would have to have some idea of it. It would have to be taken into consideration, I think.

Q. Yes. During a rate case, after the application is filed, I suppose the machinery would be: that the Board would make a tour of the two transcontinental systems, to see if savings could be made?

A. No. If there is a continuing staff in connection with the Board, they will have a reasonably good idea of what is happening. They would have records of how much has been spent year by year towards improvements. They would have data only available to the people of the Board.

Q. You mean that they would not apply that knowledge until there was a rate increase asked for, and that they would let these extravagances go on until somebody asked for an increase in rates?

A. Yes, but I do not like the word "extravagances",

because I do not think you are going to have extravagances as a normal thing. The normal situation would be what the railway proposes to do in the way of maintenance and improvement of service; that would be perfectly valid, and perfectly in accordance with the best way of doing things. There is no suggestion that the railways are going to be extravagant all the time. But once in a while you may need somebody to step in.

I thought the suggestion from you was: that I was suggesting that they would be extravagant all the time. No.

Q. Just extravagant some of the time, about the time they wanted a rate increase?

A. That is a possibility, yes.

Q. We might as well have it on the record, if you have that kind of suspicion: that we boost our expenditures just to get a higher increase than we would otherwise get.

A. No, I won't deny that that suspicion exists in a good many people's minds, no.

Q. Now then, on standard of service, is not the demand of the shipping public an important element in determining what the standard of service must be?

A. Yes.

Q. And isn't the matter of competition, both with other railways and with other forms of transportation, a great element?

A. Yes.

Q. In the standard of service?

A. Yes.

Q. Now then, is not the Board to take into account shipper demand and competition, in determining what level of service or standard of service should be provided?

A. Yes.

Q. Now then, supposing the Board comes to this view: it thinks, based on this public opinion, that the freight rates should be increased only 20 per cent, whereas the need has been shown for 25 per cent, on the then standard of service; and supposing they find that that standard of service which is then in existence is required to meet shipper demands in competition; then, what would happen to your standard of service?

A. They would probably come into subsidies.

THE CHAIRMAN: Into what?

A. Then you would probably come into subsidies. It is the same sort of hypothetical proposition that Mr. Evans suggested a few minutes ago. If you get into that situation, it is probably a subsidy situation, yes.

Q. I think you introduced the element of public opinion, did you not, into your question?

MR. EVANS: Yes.

THE CHAIRMAN: Q. Are you sure, Mr. Moffat, that public opinion would sanction the granting of a subsidy to the Canadian Pacific Railway?

A. The hypothetical situation he suggested was: if public opinion, or whatever body is deciding what is the best interest of Canada as a whole, decides they can only afford to pay a certain rate of increase, and if, at the same time, they decide that the standard of service to be provided is going to cost more than that, if those two conditions met, then public opinion has to take its choice either of letting go on a rate increase, or letting go on a subsidy.

Q. Who pays the subsidy? Isn't that the public, too?

A. Yes.

COMMISSIONER ANGUS: Q. Do you mean that the Board would have, as one of its functions, to recommend to Parliament that it should vote a subsidy, or that the Board should say to the railways: This is all you can have. : Practise austerity, and make your service cheap and nasty, and if that results in an outcry, then Parliament may subsidize you. Which process do you say?

A. That was one of the questions we considered extensively in our own discussions, and the conclusion as to what we could put in the brief was that we should say: We would ask for a recommendation from your Commission that would --

THE CHAIRMAN: Q. We are looking for submissions to us and opinions from people who come to talk to us.

A. Yes, I was going on to that: that the recommendation which we thought your Commission should make, should be so framed that it would not eliminate the possibility of government granting a subsidy at some time, but not a recommendation for a subsidy.

Q. Since the test you put is public opinion, are we sure that public opinion would sanction a subsidy?

A. No.

Q. Then what is to be done?

A. We are talking of a hypothetical situation, of course.

THE CHAIRMAN: Of course!

COMMISSIONER ANGUS: Q. Is there anything hypothetical? We have got to make a precise recommendation. It may be that our recommendation might be

-- I am not saying that it will -- but it might be that the Board of Transport Commissioners, in hearing a case, should say: The highest rates the public will stand for are so and so; the service you are giving requires higher rates or more revenue; you must either reduce your rates, or there must be a subsidy. Where do you go from there? Do they leave the railways to reduce the service and provoke public outcry, or do they have, as one of their functions, to make specific recommendation to the Government, asking it to put legislation before Parliament, asking Parliament to vote a subsidy?

A. I see the problem, and it is a problem about which we had considerable discussion.

THE CHAIRMAN: You create the problem, do you see?

A. No, I do not think so. The problem is there.

Q. That is what happens, and then the tendency is that you have no solution. So what are we to do?

A. I do not think we created the problem.

Q. No. Your language creates it. You see, here is the situation, and we say: What would you do? And you say that you do not know.

How are we ever going to find out? Unless we have the benefit of those who appear before us and who have expert knowledge and good-will to submit proposals, to submit solutions, we won't get very far.

A. You have another problem, sir. You have also to consider what will be advocated on behalf of the provincial governments; it will be quite different from what will be advocated on the basis of expert knowledge, necessarily.

Q. I am talking to you as an expert.

A. I do not conceive myself to be an expert.

Q. But anybody can read a brief. You are here

because you are qualified, are you not, to answer questions?

A. To answer questions as to what our Government has asked us to recommend, yes.

Q. That is it. What do they ask you to recommend?

A. On that particular point?

Q. On Dr. Angus' question?

A. On Dr. Angus' question: that was a recommendation to leave open the possibility of a subsidy; but we are not authorized to ask for a subsidy or to have it excluded; but to offer the further opinion that there ^{might} be no need for a subsidy in the near future.

MR. EVANS: Q. If I may go on now, Mr. Chairman: on page 3 of Chapter III of the mimeographed brief, and on page 60 of the printed brief, these words appear:

"A decision as to whether or not that standard is to be provided, however, involves matters which go far beyond the railway itself, and in those matters the railway officials can claim no particular expert knowledge."

A. Yes.

Q. Those matters which go far beyond the railway itself, I suppose, would exclude customer demand or shipper demand and competition and cost?

A. Those are the elements with which the railways are particularly familiar.

Q. Again referring to this question of measuring public opinion, and the ability of the public, in the view of the public, to pay rates --

A. Yes.

Q. That is all you have in mind there?

A. That is right.

Q. Now then, you do not recognize that the ordinary

law of supply and demand will have some influence in that?

A. It would have some influence; but a very large proportion of the traffic will have practically no influence; things like western agricultural products they are coming out by rail. It does not make very much difference what happens to the standard of service or to the rate charged.

Q. But standard of service, by and large, is determined by customer demand and competition?

A. No, not necessarily with our primary products; they just have to go out by rail. There is no other way; and it does not matter what the standard of service is. They have to go out by rail.

Q. Those things which are in a railway, which you would say the railway people are expert in, those things have to do with public opinion?

A. Public opinion and the prospect of having high levels of business activity, and the prospect of a continuing volume of international trade, things of that sort, the railway operating people are no more qualified to deal with than outsiders. They can claim no particular expert opinion on things of that sort.

Q. But dealing with trade; they may have some opinion?

A. That is right.

Q. Do you think that collective public opinion, which you say should be the thing which decides the level of rates, is capable of measuring the demand of the shipping public for a standard of service?

A. This word, collective public opinion, has been used here pretty frequently; it is---

Q. Let us not have a misunderstanding; I do not want to get at cross purposes with you.

A. It is a problem of democratic government, which represents a government, which takes into account public opinion and decides what it thinks is in the best interests of Canada as a whole, considering public opinion, considering other things as well.

Q. Really what I am coming to is that this so-called public opinion may or may not be public opinion, and it may or may not coincide with shipper demand ?

A. That is correct, yes, sir.

Q. Now, you speak of the use of independent experts in this same connection; you thought they should have outside consultants?

A. Yes.

Q. I just cannot put my finger on that, but my notes--

A. It comes up on two or three occasions in the brief.

Q. I thought it did.

A. Yes.

Q. How do you suggest that an independent expert would proceed if he did not resort to the railway officers to find out what the demand was for a standard of service?

A. To find out what the demand was for a standard of service?

Q. Yes.

A. He would probably have to go to the railways, yes, but that is not the only consideration.

Q. But the independent expert would simply be a means of helping the Board decide whether the evidence given by the railway experts was to be taken as entirely reliable?

A. That is right, yes.

Q. But you are not confusing in this context the standard with the cost of service, are you?

A. No. I think we make it perfectly clear that as far as the cost of providing the service is concerned, the railway people do know more about it than anybody else.

Q. Now, on page 6 of this part, which is---

THE CHAIRMAN: What printed page?

MR EVANS: Page 62. I think I have covered that branch of the thing sufficiently in my other questions, and I can pass on.

Q. Later on in the page, still on page 62 of the printed brief, we find these words:

" . . . the Board will immediately find that it must reach a conclusion as to the amount of money needed to pay for the standard of railway service provided in the year which is under consideration, together with the amount, if any, which is to be provided for the purpose of improving the standard of service if the Board considers that such an improvement is necessary." Now, does that involve the railways not making any improvements without the approval of the Board?

A. No. That is how it seems that the mechanics will work in case there is a decision as to the level of rates to be arrived at. It does not say, or there is no suggestion, that the railways should not go ahead with their improvement programme just as they feel fit, but if the Board is going to try to reach a decision as to its rate levels the only conceivable way it can go at it is to see how much money was spent last year to provide the

service that was provided last year, and then to make whatever adjustments are necessary to give an estimate of what is going on this year.

Q. Then would the railway run some risk in making regular improvements if the Board were to be free to reject those improvements during a rate case?

A. Oh, yes.

Q. They would have to take that risk?

A. Well, certainly they would have to take that risk. They always have to take that kind of risk.

Q. So in the last analysis I suppose it would mean this, that on any major improvement they would have to consult the Board in advance?

A. Not necessarily, unless they were going to ask for a rate increase to pay for it.

Q. I do not understand you -- a rate increase to pay for an improvement?

A. Yes.

Q. A capital improvement?

A. Yes.

Q. When has there been a rate increase to pay for a capital improvement?

A. It almost came to that in this 20% case; a suggestion---

THE CHAIRMAN: Q. In where?

A. In the 20% case, a suggestion that a rate increase was necessary in order to give a standard of earnings which would make possible the borrowing of sufficient money to provide for an improved standard of service. It was one step in between, but it came very close to being an application for a rate increase to pay for an improved standard of service.

MR EVANS: Q. Are you seriously suggesting that

the idea of a corporate surplus for the railway operation was for the purpose of improving the standard of service, or was that merely one of the reasons for having a surplus? Are you suggesting, in other words, that that surplus was not the ordinary corporate surplus that all companies require, but was tied to the need for improvement in the standard of service? Is that your suggestion here?

A. Well, that was certainly the impression left with me, that that was involved in it. There was talk about the great improvement programme; there was talk about the need to finance the improvement programme.

Q. Let us not talk about the financing of the improvement programme if we are talking about the \$400 million; let us talk about surpluses for the moment. I will come back to the big capital improvement programme. Let us not get off the track. Are you seriously suggesting that the only justification for a surplus was to have an improved standard of service, and therefore an increase in rates was brought about?

A. Oh, not that it was the only reason, no.

Q. And would you not agree that a corporate surplus is desirable whether you are going to improve the service or not?

A. There is a discussion of that in here, yes.

Q. Would you agree or not?

A. Yes, agree that there should be some surplus; as to the amount, there was plenty of argument.

MR McLEAN: I would like to remind my friend Mr. Evans that in the foundation exhibit in the 30% case---

THE CHAIRMAN: What exhibit is that?

MR McLEAN: Those were the exhibits that first went in. At the bottom of the page there was an item of \$152 million for additions and betterments, and it was quite

clear throughout the whole case that they came in and asked for that \$150 million by way of surplus to pay for capital improvement.

MR EVANS: My friend perhaps had better look at the record. Additions and betterments in the sense that that was used---

THE CHAIRMAN: Well, Mr. McLean tells you where it is to be found in the record.

MR EVANS: Well, I say Mr. McLean is wrong, sir, that those are not the reasons put forward, that there was a sharp distinction made. These additions and betterments were very largely results of minor replacements of assets without improving the standard of the asset at all, but due to the increased price, and a whole lot of other factors were in that. Part of it was minor improvements, but there was no question of an improvement in the standard of anything.

THE CHAIRMAN: Is the record available?

MR EVANS: I will look it up, sir.

THE CHAIRMAN: Because you gentlemen may differ on how the record itself is to be interpreted.

MR McLEAN: I think there is a good deal in that.

MR EVANS: There is a suggestion here that there was a rate increase in order to improve the standard of service, and it is got at through a suggestion that a corporate surplus produced that result. I am just suggesting that the corporate surplus would be a desirable thing, under the Board's judgments, whether you had that result or whether you were dealing with something entirely different.

THE WITNESS: You have the judgment of the Board -- several things which they thought should be considered as justification for that surplus. It is quoted in the

brief here at one point, too.

MR EVANS: Now, on pages 8 and 9 of Chapter III -- page 63 and page 64 of the printed brief -- there is a reference to the elimination of unnecessary expenses. Do you think that management is incapable of making efficient use of labour and materials?

A. No; not that they are incapable, no.

Q. Then if there is any inference to be gleaned from reading that section of your brief, you do not want it to infer that there is any lack of efficiency on the part of management?

A. Well, there is a distinction between being incapable and using their capabilities on every occasion.

Q. Then let me be clear. Are you saying that they are capable but that they are not using their capabilities to make the best use of labour and materials?

A. There is always the temptation, if any automatic formula is being established here for a rate increase, for management to come in and say, "We have spent this much money, consequently we should have a rate increase to cover it." It is to guard against the possibility of that sort of thing developing that we feel that the Board should have the right to at least take things of this kind into consideration. I do not think you can put down in specific form just what they should do about it, but it should not be possible to have either management, or to some extent labour in the second case, simply come in and say, "Well, this is the way the thing is being done, this is how much money is being spent for materials and for labour, and so on, and therefore automatically we are entitled to a rate increase to cover it."

Q. You thereby rather suggest that, although management is capable, it is careless in the use of labour and

materials?

A. It may be careless; it may find that for a series of reasons it is not possible to resist certain tendencies.

Q. And then do you think that the Board could stiffen their resistance?

Q. Yes; to some extent reinforce them on some points, yes.

Q. I suppose this also is a matter that is really a matter to be considered usually in rate cases, and not a continuing matter?

A. I would think so, yes.

Q. So that here again the Board would then have to make a survey of the efficiency with which labour and materials had been used and were then being used, in order to determine the level of rates, on each case?

A. Yes, or a continuous check to keep in touch with what was being done.

Q. Now, which do you say, because I am---

A. Well, the suggestion I think is a continuous check on it. If they have the authority to do something, they would have to know what was going on, yes.

Q. Did Manitoba present its views to the Board in a recent case in which the Board was considering the number of men to be employed on section gangs? Did it present its views to the Board on that?

A. No.

MR McLEAN: Do you think they would, with an election coming on?

MR EVANS: Well, I am naive about elections, Mr. McLean.

Q. But there was about \$8 million involved in that, and I was wondering whether it would not have been proper for Manitoba, holding the views it does about those

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matters, to express its views on these subjects?

A. I would not say necessarily for Manitoba as the Government. It probably would have been quite proper for a number of other people to have done it. It might have been proper for Manitoba as a Government to have done it also, but for obvious reasons that could not be done.

Q. Doesn't it get down to this: Supposing the railways were asked by the Board to accede to the demands of the applicants, and that thereby they incurred this additional \$8 million of expenses, but sometime later public opinion comes along and says, "We can't stand that \$8 million added to our freight bill; you can't have that increase in rates to cover that" -- now, is not the time for public opinion to express itself through your Provincial Government and others before the Board when they are hearing these cases?

A. I think so, yes; logically, yes.

THE CHAIRMAN: Mr. Evans, we will adjourn now.

---The Commission adjourned at 4:45 p.m. until Thursday, November 17, 1949, at 10:30 a.m.

A.R.

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ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO,
THURSDAY,
NOVEMBER 17th, 1949.

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D. - CHAIRMAN
HAROLD ADAMS INNIS - - COMMISSIONER
HENRY FORBES ANGUS - - COMMISSIONER

G.R. Hunter,
Secretary

P.L. Belcourt,
Asst. Secretary

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C.F.H. Carson, K.C.	}	Canadian Pacific Railway
F.C.S. Evans, K.C.		
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Wilson E. McLean, K.C.	}	Province of Manitoba
C.D. Shepard		
M.A. MacPherson, K.C.)	Province of Saskatchewan
J.J. Frawley, K.C.	)	Province of Alberta
C.W. Brazier	)	Province of British Columbia
F.D. Smith, K.C.	}	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade
J. Paul Barry	)	Province of New Brunswick
F.R. Hume	}	Canadian Automotive Trans- portation Association
M.L. Rapoport		
R. Kerr	)	Board of Transport Commissioners
W.E. Derby, K.C.	)	Prince Edward Island

ROYAL COMMISSION ON TRANSPORTATION

Ottawa, Ontario,
Thursday, November 17, 1949.

MORNING SESSION

R. E. MOFFAT, recalled:
CROSS-EXAMINATION RESUMED BY MR. EVANS.

MR. EVANS: Before going on with my cross-examination, I would like to draw the Commission's attention to several matters that were to be looked up yesterday. The first of those was to do with the suggestion by the witness at Page 8925 of this record, that surplus was tied to the necessity for improvement of the service.

THE CHAIRMAN: Would you please repeat that phrase.

MR. EVANS: The request for the surplus in the rate cases was tied to the need for improvement in the service, and the question and answer that gave rise to that is at Page 8925 of our transcript here.

The first reference I want to give the Commission is to the argument and evidence in the 21 per cent Case which explained that in detail. I am not going to give it all, but I will give the Commission some of the highlights of it and the page references. In my argument at Page 16,101 in the 21 per cent Case extending to Page 16,111, I reviewed the evidence and the cases on the question of surplus, and the references to which I would like to draw your attention are to the evidence of Mr. Liddy at Page 3510 in the transcript of the 21 per cent Case, and I will just read one answer from that.

"I will try to explain it to you, sir.

The conditions reflected under my foundation exhibits are such that there is an amount of expenditures for additions and betterments which do not represent any enlargement of plant, but merely represent the replacement of the existing plant in its present condition, improving it only to the extent that modernization is necessary and largely reflected today in the increased costs of replacement over the cost of the units retired due to higher prices."

In cross-examination again he makes a further explanation:

"Now, we claim we are entitled to keep our transportation facilities in tune with the demands of the public. We are not asking for any money through our income account to increase our plant, to expand it or to handle more business than it ever handled before. We are simply asking that our plant be maintained under the conditions that exist and under the demands for service which the public expect us to render."

Then there was a good deal more of cross-examination, and the evidence of Mr. Liddy was supported by the Financial Vice-President at Page 3973 of the transcript in the 21 per cent Case, and the substance of that evidence was that where there was no increase in capacity or expansion involved, the necessity for keeping the plant in condition required something more than the mere accrual depreciation and that a surplus was necessary. He said that in his view unless there was such a surplus, insolvency would inevitably result because of the increase in fixed charges, that all these matters had to be the subject of borrowing.

Then the Board's Judgment in the 21 per cent Case, that is 38 Judgments, Orders, Rules and Regulations, at Page 26 of the printed copy, the pamphlet copy, deals with the question in detail, and at the top of Page 27 one aspect of the necessity for surplus is referred to. The Judgment reads:

"I think that a railway is entitled to a reasonable surplus over and above fixed charges and dividends. A railway company, as in the case of other enterprises, should have something in addition to "come and go on," to provide for contingencies and to help equalize the result of poor years with good years. And to have something, if necessity arises to put back into its railway operation undertaking for the improvement of the services which it is required to furnish. That is apart from major capital requirements. This is how the board viewed the matter in earlier decisions."

Now then, there are a large number of decisions of the Board and the Board reviewed those in the Judgment of the 21 per cent Case and found that the amount of the surplus asked for was somewhat less than had been given by the Board to other utilities in other cases. That review of those cases appears at Page 27 of the Judgment I have just referred to.

Now then, I will come back, if I may, in another connection to that matter of surplus, but then on the independent study of maintenance, the suggestion yesterday was that there had been no adequate study of the maintenance question.

Now then, I referred to two studies that were made, one by the Board independently and one by the provinces themselves, and I went to give the Commission the references. Early in the 20% Case the question arose as to whether the materials supplied to the Board for its own study should also be supplied to the Provinces in addition to what the Board had ordered us to supply to them, and at page 295 Mr. Carson spoke to the matter and discussion followed and the Board at page 298 said that in fact that was for the Board's private information and that it did not feel that the information should be supplied to the provinces. The importance of that, my lord, is that the Board did quite independently of the parties, make a study of the maintenance question.

Now, on the other matter, a large number of requests were made by the provinces for information for their technical people to satisfy themselves/^{as} to the maintenance question, and after many conferences and the supply of a great deal of information, there had been correspondence indicating the nature of the requests, and I wrote a letter to Mr. MacPherson which rather summarizes the history of these conferences. That letter is one dated February 16th, 1949 and was put into the record as Exhibit 153. and I would just like to read one or two paragraphs from it. This is a letter from me to Mr. MacPherson:

"Our engineering and accounting officers arrived from Montreal last evening with the data requested by your three letters as we had interpreted them in our discussions. You and Mr. MacDonald then met us and the data was put before you and considerable discussion followed. At the conclusion of our meeting you told us that the data we had furnished,

gave you the information sought by your letters but that you would let us know before midnight tonight whether you would require any original records in respect to any of the items included in such data".

Then on another paragraph:

"Before we broke up last evening we also pointed out that the engineering and accounting officers had come to Ottawa especially for the purpose of offering any explanation you might desire. Some of them had been unable to obtain accommodation in the hotel but we told you we would keep them in Ottawa if you desired it. Both you and Mr. MacDonald told us that there was no need to keep them here further and that they could return to Montreal."

Now then, further on the question of maintenance, some reference was made yesterday to the decision in the review which was delivered by the Board in September last. I think I should also refer your commission to this part of the Judgment. At page 4 of the printed pamphlet, that is in the so-called 20% Case or 8% Case, which ever one you choose to call it, and the Judgment, as the Commission will observe, is divided into two parts and the Commission will also understand that the hearing of the application for the 20% increase in rates coincided with the review of the previous decision. The two are indistinguishable in the proceedings.

Now then, at page 4 of the printed pamphlet the Judgment says this:

"Dealing first with reference to the Board by Order-in-Council P.C.4678, in my opinion no new evidence was furnished the Board or new matters drawn to its attention which would justify disturbing the findings of the Board with respect to the following matters:

- (a) As to the propriety of the maintenance charges submitted by the Canadian National and the Canadian Pacific Railways for rate making purposes.
- (b) As to any requirement by the Board as to the manner in which the deferred maintenance reserve should be drawn upon.
- (c) As to the requirements out of railway earnings for surplus of \$15,235,000."

Now then, two other matters. There was a reference yesterday by Mr. Shepard, I think it was, to the evidence of Mr. Northey Jones. It is on the 15th. At page 8682 Mr. Shepard is reported as saying this:

" Mr. Chairman, just before passing on to the next chapter, I might make reference in passing to the evidence of Mr. Northey Jones. He was an expert called by the Canadian Pacific Railway in the 20% Case and the reason I think the reference is relevant here, is that he discussed the problem and gave evidence on the problem of the Canadian Pacific Railway raising new equity capital, and the effect of his evidence and the cross examination of them by Mr. MacPherson was to indicate a very large increase in freight rates in order to provide to the company a sufficient amount of revenue to attract new investors - about 40% to 50% increase in their rates,

as I recall it."

Now then, just to have the record straight, I think there was no such suggestion in Mr. Northey Jones' evidence and I think my friend will find that to be so. There is quite a difference. In the first place the suggestion is that a 40% or 50% increase in freight rates would have been necessary. Now, the only cross examination dealing with that was the cross examination by my friend Mr. MacPherson of Dr. Dorau. Now Dr. Dorau gave the information that a return of 8.2% would have been proper for the Canadian Pacific on its depreciated investment basis. Now, that would have been approximately \$82,000,000, not \$82,000,000 in addition to what it had but \$82,000,000 in all, net earnings after operating expenses. Now then, Mr. MacPherson sought to show that if the company was to be required to earn that amount of money, an increase not of 20% but of 40% to 50% would have been necessary. Now in the case of Mr. Northey Jones, I can give you before passing to that, the reference to Dr. Dorau's evidence on that subject. I do not want to take too much time. The matter to which I have just referred, Mr. MacPherson's cross examination on this point is at pages 2885 to 2889 of the 20% case and the evidence of Dr. Dorau as to what a fair return would be is at page 2863.

Now then, Mr. Northey Jones approached this matter in an entirely different way. He made a hypothetical capital structure and he tried to envisage how the capital would be raised and what proportion of it would be debt capital and what proportion of it would be equity capital, and he arrived at necessary earnings to attract equity capital not of \$82,000,000, which was the difference between what is a fair return, weighing all

factors and what Dr. Jones thought would be necessary to attract equity capital, and his evidence was not \$82,000,000 of earnings but \$66,650,000 of earnings. Now, that will be found at page 2582 of the transcript in the 20% Case and it amounted to a $6\frac{2}{3}\%$ return on the depreciated book investment of the Canadian Pacific.

Then I have got one more reference and this comes of the question asked by Dr. Innis. At page 8539 Dr. Innis asked Mr. Moffat whether there was any information as to the number of employees in the different categories of one of the tables Mr. Moffat had in his brief, and Mr. Moffat replied that he knew of none or they were not available to him, or something of that kind, and I looked up an exhibit in the 21% Case and I find that as regards the Canadian Pacific, Exhibit 118 sets out the categories of employees, both in terms of remuneration in total for each group and also in terms of the number in each group.

COMMISSIONER INNIS: That is for both 1946 and 1948?

MR. EVANS: For the years 1939 to 1945 inclusive.

COMMISSIONER INNIS: That is to say, it does not parallel the table which I was quering Mr. Moffat about?

MR. EVANS: Oh, you had reference only to the present year?

COMMISSIONER INNIS: I was just wondering whether you had the 1946 to 1948 figures?

MR. EVANS: That was brought down to date. If you would like it I can get it.

COMMISSIONER INNIS: Thank you very much.

MR. EVANS: Now then, if I may -

MR. MacPHERSON: My lord, my name has been referred to by my learned friend two or three times and I do want to say just a word in connection with it. So far as the cross-examination of Dr. Dorau was concerned, he has referred to

the evidence. I want to refer to the exhibits as well, two exhibits in the 20% Case, one at 4992 and the other 4993 and these, which Dr. Dorau exhibited, indicate that what he suggested would mean an increase of approximately 50% in rates would be required to produce additional revenue of \$73,000,000.

Now, on the other point, if my friend wants to go into it, he quoted from certain letters and mentioned a certain meeting we had with their experts. That meeting was held at the very tail end of the hearing of the 20% Case. We had no notice that these gentlemen were in town that night, as my friend well knows. I make that statement of fact now.

MR. EVANS: I deny it because we arranged with you that they would be there.

MR. MacPHERSON: Not that night, and as a matter of fact I propose later, if my friend wants - as I said yesterday - to fight out that issue in the 20% Case, we will be glad to do so.

MR. COVERT: Mr. Chairman, I do not know whether the gentlemen want to fight out the issue or not but I do not think it should be fought out here. We have a witness prepared to go on the stand and we have other witnesses waiting to be heard this afternoon and to-morrow, and I don't think this is the place to fight it out.

MR. MacPHERSON: I would not have raised it, Mr. Chairman, but for the fact that these lines were read and I did not want that to go unchallenged.

MR. EVANS: I do not want this to be unchallenged either. My friend said it was at the end of the case. The case ended on April 6th and this letter was written on February 16th. The case was commenced on January 11th and culminated in a long series of discussions.

THE CHAIRMAN: It is all about questions addressed

to Mr. Moffat yesterday and answered by him as to the propriety of certain figures being allowed. Now are you trying to say, Mr. Evans, that Mr. MacPherson, for instance admitted certain things as being proper?

MR. EVANS: No sir, I am only suggesting that if anyone comes here and says that a study of the maintenance question was not made by the Board and was not open to the parties, that that is not a correct statement. I merely offered that letter as indicating that we have had our experts there and we have had discussions from time to time and supplied information, and then we got what we thought in fairness they said: "You do not need to hold your experts here. We have got what we asked for". Now what can be wanted -

THE CHAIRMAN: In other words you say this, that this maintenance question was considered by the Board and all the required evidence was there?

MR. EVANS: Yes sir.

THE CHAIRMAN: Does Mr. MacPherson say no?

MR. MacPHERSON: No, I do not say that at all, Mr. Chairman. I do not say no but what I do say is that my friend, Mr. Evans suggested yesterday or indicated the readiness with which the company furnished information which was asked for by the provinces.

THE CHAIRMAN: That is rather a side issue.

MR. MacPHERSON: That is what I said yesterday but it was raised again this morning.

THE CHAIRMAN: I don't see why we should thresh that out here. Well, you have put it on the record anyhow, Mr. MacPherson, but you are not asking us to decide an issue between you and Mr. Evans?

MR. EVANS: No, not at all. I am only asking to get this on the record because the brief of Manitoba suggests that an insufficient study was made of maintenance expenses.
(Page 8943 follows)

MR McLEAN: I think quite properly in the words of the judgment, sir.

MR EVANS: Page 4.

MR McLEAN: Subsequently, at page 11, where the Chief Commissioner says:

"I think that these maintenance costs will require further study before any decision can be given."

THE CHAIRMAN: What judgment is that?

MR McLEAN: This is the judgment of the Chief Commissioner in the 20% case, at page 11.

THE CHAIRMAN: Was that ever followed up by anything?

MR McLEAN: Well, actually this was only issued in September.

THE CHAIRMAN: This is the last one.

MR McLEAN: This is the last one, and an interim order was given, then---

THE CHAIRMAN: There could be something further to come; there is a reservation, anyhow, there.

MR McLEAN: And he said:

"Counsel for the Provinces . . . conducted a very skilful and able examination . . . and I therefore am of opinion that the question of proper maintenance costs as well as that of deferred maintenance will require further study by the Board in the light of additional information and accounting procedure which may flow from the recommendations of the Royal Commission, which has been asked to investigate the accounting procedure for the railway companies.

THE CHAIRMAN: Is that additional information to be furnished by the railways?

MR EVANS: We do not know anything about that, sir, but we do know that the Board is in review in the

same judgment said that no evidence had been adduced before it that justified any finding that the level of maintenance expenses was not proper. I do not know what the Board had in mind; it may have had in mind something to do with accounting practice, because it is mentioned in connection with accounting. There is certainly no suggestion in that as to the impropriety of maintenance, because they have expressly stated that the maintenance charges they did review are found to be proper and that the surplus is proper.

THE CHAIRMAN: Subject to this, that they expect further evidence and further study to be made. Probably you might say they admit the principle is proper.

MR EVANS: At least they have found that our maintenance expenses are not improper for rate-making purposes. That is expressed in the finding at page 4. What they had in mind I do not know, about further study on maintenance. It is tied in the judgment to some suggestion of accounting practices.

THE CHAIRMAN: I know even less about it than you do; but whatever you wished to unburden yourself of is on the record now. Cannot we proceed with Mr. Moffat?

MR EVANS: Yes, sir, I am quite ready.

Q. Now then, Mr. Moffat, I had put to you a question yesterday as to the condition we would be in if the Board heard an application for an increase of 25% and it could be shown that that 25% increase was needed for the standard of service demanded by the shipper and the competition, and we had discussed how you thought that the Board might reduce that to 20%, simply because public opinion thought that it could not afford to pay the difference. You had arrived at the point that you thought that in that circumstance a subsidy might have to be granted?

A. Yes. I objected to the words "simply because public opinion thought". I said if it was their judgment that in the existing state of public opinion and considering other factors it was in the best interests of the country that the rate should not go higher.

Q. I am not trying to get you away from that. I am not pursuing you or asking you to change your answer; I am just reminding you of the discussion. There was also discussion of the railways having to go out and find some means of saving this money themselves?

A. That is correct.

Q. Have you looked at the density chart which appears in the Canadian Pacific brief, with a view to---

A. Yes; not too carefully, but I know the chart you are referring to, yes.

Q. I suggest to you that from that chart you can determine the extent to which there are what we call low-density lines, and I suggest to you that the Canadian Pacific has 41% or 6901 miles of line which produce less than 250,000 net ton miles per mile per annum?

A. Yes, but net ton miles per mile per annum by itself is not a measure of whether the track is operating up to capacity. It depends upon what kind of track you have, it depends on whether you have block signals, and a lot of other factors. Just a straight figure alone does not tell you anything.

Q. My only point is that this condition does exist?

A. Oh, yes.

Q. Now, if 41% of the lines have the density under that figure---

A. That is probably true.

Q. It quite obviously is a thin density line?

A. Yes, but there may be a thin capacity line as well.

You cannot tell anything without looking at the two factors.

Q. Are you prepared to offer your opinion that a line delivering less than 250,000 net ton miles per mile per annum is not a low density line?

A. It conceivably might not be. It might be handling all it could handle on that particular line.

Q. Is that your opinion as a transportation expert?

A. No, not my opinion as a transportation expert, but you have to take the capacity of the line in different cases as well as the result.

Q. Yes, but can you imagine a railway line that would not have much more capacity than that?

A. I do not know.

Q. I suggest to you for the purpose of this question which is to follow that that is a substantial number of thin traffic lines. Now, if the Canadian Pacific were told that it could not have the amount of money that was needed to maintain the standard of service which the Board thought was required by the shippers and by competition, would you agree that they should be able to save money by going out and abandoning some of their lines, the thin traffic lines?

A. It might be some of the thin lines; it might be some of the most heavily travelled lines, on which the costs have been built up to the extent that the losses might come there.

Q. My question was, would you agree that they might do that?

A. They might do that, yes.

Q. Has the Province of Manitoba taken any position in connection with some abandonment cases, to your knowledge?

A. No, I do not know. I would rather suspect -- I

am not speaking from knowledge, but I rather think that they probably opposed some abandonment cases.

Q. I think I agree with you.

A. I do not know of any of them in detail.

Q. Supposing they wanted to abandon some of these thin-density lines because of their need for money, and they were opposed and the Board refused the right to abandon, what then? They have to make this additional saving to live within the budget the Board has fixed for them. What would they do? Abandon these lines?

A. Well, there might be some other of these ways of saving money as well; they might be on the high-density lines and the high terminal costs in some of the eastern cities.

Q. Then somebody would have to say, "Don't abandon the lines, do something in your terminals" -- is that it?

A. That might be, or the railway management might have to decide it.

Q. Supposing the railway management wanted to abandon these lines, they thought they could save a lot of money if they did abandon them, would you say they should be allowed to abandon them?

A. Well, there are more factors involved in railway transportation than just the one question of the cost. That is the one point that we have been making all through the brief. I agree that the problem has to be looked at; the size of the possible saving has to be measured against the shall we say cost on the people who are getting the service, the extent to which the community will be disrupted, and somebody has to reach a decision as to what the over-all effect is.

Q. You see the position you have put us in; on the one hand you have said, "The public say we cannot keep up this standard of service, and therefore you cannot have the in-

crease,"and when the railway comes along and says, "Well, now, we cannot justify any standard of service in a certain community," you then say that the public should be able to say, "Well, you must give it nevertheless." Don't you put us in an impossible position?

A. If you carry it to the extreme, yes, it is an impossible position, but someone has to weigh the possible savings against the disruption that is involved and reach a decision, that is right, and if it is carried to the extreme, to say they never can abandon lines, that is ridiculous; nobody would take that position; but, on the other hand, I do not think anybody would take the position that they should automatically abandon a line as soon as it begins to show a small loss; it depends how big the loss is.

Q. Yes, but you really get us in a position where you first cut our rates, on your ability to pay, and then you prevent us from making the savings with that forced on us?

A. Except that there are a lot of other places where savings might be made besides low-density lines, with low cost operations as well.

Q. Are you familiar with the avenues for saving?

A. Not particularly, no.

Q. Then may I pass to the discussion of Chapter III, page 10, of your brief, page 64 of the printed brief. You recommend there that the Act regarding Canadian National-Canadian Pacific co-operation be changed so that the Board will take into account available evidence on co-operation?

A. Yes.

Q. Now a very short series of questions. Let us suppose that it should be found that the Canadian Pacific was at fault in not carrying out a co-operative measure,

and that the fault had been established in this inquiry, would you penalize the Canadian National in its rates because of the fault of the Canadian Pacific to co-operate?

A. No, I do not think so.

Q. Well, reverse it; if it was the Canadian National which was at fault, would you penalize the Canadian Pacific?

A. I do not think so.

Q. Doesn't that amount to this, then, that it is not a practical matter to go into an inquiry of matters that require the action of the two, in rate cases?

A. Well, what that means is that it is impossible to administer that Act, if that is true, and I think this section is a very unsatisfactory section.

Q. I am not suggesting that to you at all.

A. I do not mean the section of the Act; I mean this section of the brief is unsatisfactory, in this sense, that the problem there is one on which there is no good answer. This is an attempt at something that might conceivably be useful. The present situation is completely unsatisfactory. This might be an improvement; it is not perfect by any means.

Q. I am not suggesting to you that there is not some value in the Canadian-National Canadian Pacific Act; I do not want to be understood as saying that. What I am suggesting to you is that the part of your brief which suggests that it should be a part of the inquiry in rate cases to make this inquiry, is unsound, for the reasons I have given.

A. No, I would not agree with that, because if it is not taken into account in rate cases, then there is no other place where any effective action could be taken without direct interference and direction, and that is the one thing we have been trying to avoid here, is having a body come to the railways and direct them exactly where they

. should take action on this or that point. If you are not going to that point, which we do not advocate anybody doing, then the only other place you can do anything effective at all would be to take that kind of thing into account in the rate cases.

Q. You could not penalize the railways; there are ways of penalizing them without that, only then you would penalize the one who was at fault, wouldn't you?

A. Well, I do not see any other way of penalizing them.

Q. You do not?

A. Except directly stepping in and telling railway management how to run their affairs, which is the one thing we are trying to avoid.

Q. Well, I am glad to hear you say that.

THE CHAIRMAN: Mr. Evans, has the question ever arisen of differences of opinion between the two railways in regard to measures of co-operation?

MR EVANS: Oh, I think there must have been many cases.

THE CHAIRMAN: I mean before the Board.

MR EVANS: Oh, no, sir; they have been able to resolve their differences without referring it to an arbitral tribunal.

THE CHAIRMAN: The Board has never been confronted with a desire by one railway to abandon ascertain lines or to co-operate, and opposition by the other railway to the co-operation?

MR EVANS: Perhaps we are at cross purposes. First, the Board as a Board has no jurisdiction at the moment.

THE CHAIRMAN: Yes, they say they cannot inquire into the results, that those things go before Parliament,

but on any occasion such as an inquiry on freight rates, for instance, has it ever been shown to the Board that money might have been saved here if the C.P.R. had had its way, or on the contrary that money might have been saved or might be saved in the future if the Canadian National had had its way?

MR EVANS: No, sir.

THE CHAIRMAN: One company opposed to the other, in this respect, that they cannot agree.

MR EVANS: No, that has never been argued before the Board.

THE CHAIRMAN: You are assuming a case now where it might occur; you are assuming a case where it might occur, through the fault of one of the railways, that the measure of co-operation is not embarked upon, and you are asking what should be done in such a case. Should that be reflected in the allowance with respect to freight rates which would affect both railways in the same way?

MR EVANS: That is the difficulty I see, in making these an integral part of a rate case. There are other ways of reaching the defaulting party in my submission.

THE CHAIRMAN: But I am taking it the way you put it.

MR EVANS: There is one other thing I think is required, in answer to your question, sir, and that is this, that whenever the co-operative measure has reached the point of agreement, as has been the case in a number, and the Board's authority is requested for the right to abandon, then we find in many cases the objection raised by interested persons, including many of my provincial friends, and a rejection by the Board of the right to abandon, in view of that opposition.

THE CHAIRMAN: That then is an application for the right to abandon made by both railways by agreement.

MR EVANS: Yes.

COMMISSIONER INNIS: Have there ever been cases, Mr. Evans, in which agreements have been made and perhaps carried out over a period of years, and then there have been complaints as to unsatisfactory working out of the agreement, and attempts to cancel?

MR EVANS: Attempts to cancel a joint co-operation?

COMMISSIONER INNIS: Yes.

MR EVANS: Well, there have been. I do not know that I could give you the cases; whether they arose as a result of the normal co-operation of railways in joint facilities, or whether they arose under the Canadian National-Canadian Pacific Act, I could not say -- I do not recall any under the Act -- but, as you may well know, the sections of the Railway Act 151 and 152 and that series of sections has been utilized by the railways on many occasions to apply to the Board of Transport Commissioners for the right to operate on the line of another railway, and under 193 the Board has the power to permit that against the will of the owning railway. They have exercised that very rarely.

THE CHAIRMAN: You say they exercise that very rarely.

MR EVANS: Very rarely.

THE CHAIRMAN: Have they ever exercised it?

MR EVANS: Oh, yes. One that comes to my mind is a case up in Goderich, Ontario, where the Grand Trunk and the Canadian Pacific -- I have forgotten which was which, but one wanted to use the line of the other and the other objected, and the Board ordered the objecting line to

permit its line to be used.

THE CHAIRMAN: And the line was used?

MR EVANS: So far as I know. I am speaking from long memory -- it is probably in the time about 1910 or 1912 -- but I would be glad to look it up if it is of interest.

COMMISSIONER INNIS: That is to say, before the Canadian National-Canadian Pacific Act.

MR EVANS: Yes. And there have been numbers of joint facility agreements and joint facilities of all kinds operated by the two railways in co-operation with one another before this Act ever arose, and there still are matters that do not come under the Act at all.

COMMISSIONER INNIS: I was just wondering whether the whole co-operative Act may have gone too far in some cases, and probably should be unscrambled; but I am not sure whether there is anything in that.

MR EVANS: I am not sure that I understand what you mean by going too far.

COMMISSIONER INNIS: Well, going so far as to arouse a good deal of restiveness on the part of those who have entered into the agreement, and a feeling that they would like in some way to have it cancelled.

MR EVANS: I do not think that any agreement has been made where the parties have tried to have it cancelled, under that Act; I do not recall it.

THE CHAIRMAN: When you say "that Act", you mean--

MR EVANS: The Canadian National-Canadian Pacific Act.

THE CHAIRMAN: I see the sections of the main Act are quite elaborate, about getting together, agreement for interchange of traffic and running rights, and so on.

COMMISSIONER INNIS: Perhaps I should not have

raised the question of getting together, but rather the question of the possibility of getting out.

MR EVANS: They are usually for a term if they are made under the ordinary sections of the Railway Act. The Board usually limits the term to twenty-one years. As a matter of fact, the Act limits it to twenty-one years, and if there is a term beyond that, then usually a statute is necessary, and there have been a large number of long-term agreements made between the railways, confirmed by statute because of the length of term.

THE CHAIRMAN: Then all this discussion is an elaboration on the simple question put to Mr. Moffat as to whether, in case the two railways did not agree on some measure of economy because one of them held back, they should both be penalized in their freight rates. That is the whole question.

MR EVANS: Yes, sir.

THE CHAIRMAN: How can Mr. Moffat answer that?

MR EVANS: I was asking him whether he, as a matter of principle---

THE CHAIRMAN: It is something that has never occurred, to begin with, purely academic.

MR EVANS: May I put it this way: it is more than academic, because, you see, the brief---

THE CHAIRMAN: For the present it is academic; it has never occurred.

MR EVANS: Oh, no; it is because of their proposal that these matters be taken into account in rate cases, and I am testing the propriety of the suggestion of that kind by asking him how they could take it into account in rate cases without doing substantial injustice perhaps to the innocent parties.

THE CHAIRMAN: Yes, but only in the case where

two parties were not in agreement, where one railway wanted to do something and the other disagreed.

MR EVANS: Quite.

THE CHAIRMAN: And you say such a case has never arisen, and you are putting it now hypothetically to Mr. Moffat that what he thinks ought to occur in fixing freight rates if such a case ever did arise is not the whole question.

MR EVANS: Yes, but---

(Page 8953 follows)

THE CHAIRMAN: You can answer it as you like. Have you any opinion to give us as to what might be done if this circumstance ever did arise? There might have been economy along certain lines that both companies had agreed, that one wanted to do and one held back, and then when you fix your freight rates they must be applicable to both. Would you make the rates lower so as to penalize the good and the bad?

A. Obviously the rates have to be the same for both companies and for all the smaller companies as well. It would not function at all on any other basis than that. All I could do is to repeat the reply which I gave to Mr. Evans a minute ago.

Q. What is that?

A. About all I could do is to repeat the reply I gave to Mr. Evans a few minutes ago, to the effect that I did not think that this particular section in the brief is a very satisfactory answer because in the nature of the problem there probably is no satisfactory answer; that it was our view that unless something of this sort were done, there would be no alternative method of enforcing this sort of co-operation except by giving specific directions to the railways which would put the Board, or whoever it is, right in the railway operating business, and certainly no one is suggesting that should happen. To avoid that, this seemed to be the only alternative.

COMMISSIONER ANGUS: But if one railway proposes a co-operative agreement that would effect economies and the other railway refuses, do you think there should be some arbitration procedure laid down by legislation?

THE CHAIRMAN: Is not some arbitration provided?

MR. O'DONNELL: There is in the Act, as it stands, my lord.

COMMISSIONER ANGUS: Is the arbitration confined to the operation of an agreement or does it go so far as to decide whether an agreement should be made or not?

MR. EVANS: Yes.

MR. O'DONNELL: Section 17 and following, my lord, of the C.N.-C.P.^{Act} has the provision.

COMMISSIONER ANGUS: Does not Section 17 take over primarily the interpretation of an agreement and the measures to put it into effect once it has been made?

MR. O'DONNELL: This section as I understand it (I have not read it lately) would allow of agreements being made or being imposed where one of the parties might not be willing to enter into an agreement. Then the arbitration tribunal could be set up, and the decision, as I understand it, would be binding. It is under Section 22, Dr. Angus.

THE CHAIRMAN: What section?

MR. O'DONNELL: Section 22:

"An order or decision of any tribunal shall be binding upon the National Company and the Pacific Company and shall have like force and effect as an order of the Board of Railway Commissioners for Canada made in a matter falling within the Board's jurisdiction."

COMMISSIONER ANGUS: Taking Section 17, does it actually give the arbitration tribunal power to decide whether an agreement proposed by one party should be made binding on the other without its consent.

MR. O'DONNELL: That is my understanding.

THE CHAIRMAN: It seems rather to point to an arrangement having been made and then requiring interpretation because of a disagreement, and arbitration is to determine what the meaning is and what ought to be done.

MR. EVANS: I have not got the other sections, but the concluding words of sub-Section 2 suggest, you see: ". . . whether or not such an agreement was in consequence of an order of the tribunal"; that rather suggests that somewhere else in the Act ---

THE CHAIRMAN: Did you say Section 2?

MR. EVANS: Sub-Section 2 of Section 17. You see at the conclusion there ---

THE CHAIRMAN: "A tribunal shall have power and jurisdiction to settle and determine disputes between the National Company and the Pacific Company, which it was erected to dispose of". That means a dispute has arisen.

MR. EVANS: Yes.

THE CHAIRMAN: And this tribunal has been erected, as they put it, to dispose of that dispute, but does not the dispute itself come along from an agreement entered into by the two companies?

MR. EVANS: But the concluding words say "whether or not such agreement was in consequence of an order of the tribunal".

THE CHAIRMAN: ". . . of an order of the tribunal'?

MR. EVANS: Yes, and then if you look - - -

THE CHAIRMAN: It seems to me, you see, that there is an agreement, "whether or not such agreement was in consequence of an order of the tribunal" - - - It really amounts to the same thing. The two parties got together on something and their minds must have been made up.

MR. EVANS: Yes, but there is a suggestion there that the agreement may have come about in the first place by an order of the tribunal. What I think those concluding words mean ---

THE CHAIRMAN: The tribunal might order two persons to do something, but how can the tribunal order two persons to agree?

MR. EVANS: They can force---

THE CHAIRMAN: They can do something, yes.

MR. EVANS: They could force a co-operative measure, they might force them to agree.

THE CHAIRMAN: That would require a study of the Act which we haven't got time to do now.

MR. EVANS: I think we might perhaps argue that at the end.

THE CHAIRMAN: Yes, that might be interesting and might be valuable.

COMMISSIONER ANGUS: Mr. Evans, I was going to ask you, if your interpretation is correct and either railway can ask for a tribunal, supposing that it is offered an agreement which has been rejected, is not that an answer that Mr. Moffat could make; that in a rate case if an economy can be pointed to and one railway replies "we were ready and willing to do

it, but the other one would not do it", would not the answer then be "Did you ask for a tribunal and did the matter go to arbitration?"

MR. EVANS: That might be, yes.

THE CHAIRMAN: Now, you gentlemen here have been working under this statute for a number of years, fifteen years anyhow, and surely you can satisfy us, tell us what the situation is, what it covers, because your two companies have entered into certain agreements.

MR. EVANS: Yes, but I did not prepare myself to argue the statute today.

THE CHAIRMAN: You would argue it against whom? Would Mr. O'Donnell disagree with you or what?

MR. EVANS: I don't understand what your lordship means.

THE CHAIRMAN: I think we are probably losing a lot of time because it is not of any relevance to this one question you are addressing to Mr. Moffat: whether he thinks that in certain eventualities where one company can point to economies which might have been made by co-operation and the other would not agree to that, therefore when it comes to the question of fixing rates, both companies should be penalized because of this refusal by the one Company to do something that the other Company wanted to do. You asked him whether that should come out in freight rates.

MR. EVANS: And he answered that question.

THE CHAIRMAN: How has he answered it?

MR. EVANS: He says he doesn't think that should be the case.

THE CHAIRMAN: Ye's, well, can't we go on to something else?

MR. EVANS: Yes, sir, and I was hoping with respect, to do so, but I have been engaged in discussion on various questions here.

THE CHAIRMAN: You haven't done all the talking, I will agree with you.

MR. EVANS: Now then, on page 11 of Chapter III (65 of the printed brief) we had some questions yesterday from one of the Commissioners to you as to whether you thought that the Board should in effect negotiate wage increases. Will you refresh my recollection as to that? Do you think the Board should negotiate wage increases?

A. The answer, I think, as I recall it, was in terms of a question with which I agreed, along lines that this brief was making no suggestion either that the Board should or that the Board should not become involved in that, that there were no proposals either way on the point.

Q. But you do take the position, do you not, as a province, that if wage increases in the view of the province are too high, rates should not be increased to meet those increases.

A. In the view of the province?

Q. Yes.

A. I would not say in the view of the province. No one province can set itself out as a judge over national policy. In the view of whoever is determining national policy on transportation matters, yes, but not any one province.

THE CHAIRMAN: Pardon me a moment. You refer to national policy in what respect?

A. On transportation matters generally. The Board

of Transport Commissioners. It takes us back into the same discussion we have had several times, the Board of Transport Commissioners in its relationship to the government of the day.

Q. Well, you mean to say in fixing freight rates?

A. Yes.

Q. All right, go on.

MR. EVANS: Then I would like to get clear on this. If a wage increase is negotiated by the railways and the increase is paid and it becomes the subject of an application for an increase in freight rates, is it your view that someone should have the right to say, "The shipper shall not pay for that wage increase"?

A. Yes.

Q. Who would be called upon to pay?

A. Well, that is a question that it is impossible to answer in a hypothetical way.

Q. As a matter of principle?

A. It would have to be decided on the facts of the situation at the time. It might come out in the form of a rate increase; it might come out in the form of a subsidy; it might come out in the form of a directive which would set a certain level of rates and tell the railway companies to operate on them as best they can, either by improving efficiency or by taking steps to reduce labour costs in relation to the total volume of traffic, something of that sort. There are several possibilities.

Q. So that in the end doesn't it get down to this, that with all these directives emanating from the executive arm of government, the executive arm of government is put in the position of negotiating the labour agreements of the railways because they could not safely

pay an increase in wages unless they knew that the executive arm was not going to direct that they could not get recompense in increased rates.

A. Well, we are getting into another one of those cases where nothing is perfect, and where the alternative is less desirable than what is suggested here. The alternative is that if someone does not have the right to look over the situation, then the only alternative that is left is that of demanding that rates should go up to cover wages, which certainly no one would agree to.

COMMISSIONER ANGUS: Is that the only alternative? I am thinking of this possibility that it might be possible for the Board or for an interested party like a province to be heard when the wage rates were being negotiated.

A. Yes.

Q. Do you like that?

A. Yes, certainly, that possibility should always be open.

THE CHAIRMAN: You would approve of that?

A. Approve of the possibility of them appearing, yes.

Q. It is a concrete case that is given you by my colleague. Would the province of Manitoba agree to sit in?

A. No, I do not say the province would agree to sit in, but would agree that they were an interested party and would have the right to say something about wages on railways if they have to pay increased rates.

Q. Would they come forward and do anything?

A. I do not know what they would do.

COMMISSIONER ANGUS: Well then, would it

follow that if they did not avail themselves of the right to sit in, they would accept the award?

MR. EVANS: Now I would like to turn to Chapter V on page 4. The reference is page 77 in the printed brief. Now then, you are speaking there of the comparison between the figure for retirals in 1939 as you have doubled them?

A. Yes.

Q. And the accruals for depreciation in 1948. Correct?

A. Yes.

Q. Now then, in the first place that figure of 28 million, as I understand it, represents the actual accruals in 1948 at the new higher rates which were not put in as part of the claim by the railways in the 20 per cent case?

A. That is correct.

Q. That is quite clear?

A. Yes, that is the figure that appears in the C.P.R. annual report. It is not the same figure that appeared in the Board's calculations.

Q. So the record would be straight through, year in, at these new rates, which would reflect in the accounts presented to the Board in the 20 per cent case?

A. Yes, that is correct.

Q. Therefore this 28 million represents a substantial increase above what was the basis of the claim in the 20 per cent case?

A. It represents the figure that was in the annual report.

Q. Now, you say that the size of this increase, that is the increase between 9.6 million which is double the retirals and renewals, and the 28 million, calls

for careful investigation?

A. Did you say retirals and renewals? I think you may have.

Q. I am sorry, I did say renewals and retirals.

A. I thought you did.

Q. Is it your view that that matter did not receive careful investigation by the Board in these cases?

A. Oh, it received careful consideration by the Board, yes, and in the final judgment, the 8 per cent judgment which came out since this brief was recorded, they accepted our views pretty largely on that point, on the question of adopting straight line.

THE CHAIRMAN: On the question of what?

A. On the question of adopting straight line depreciation in regard to rolling stock. That was since this brief was recorded.

MR. EVANS: They did not accept your views on the question as to whether road property should be on a renewal basis?

A. That is correct.

THE CHAIRMAN: Road property should be on what basis?

MR. EVANS: Renewal basis, that is part and parcel of the Manitoba submission. Now then, are you asserting the comparability between charges under a retirement or a renewal basis with charges under a depreciation era?

A. Well, comparability to the extent that they represent the amount that was charged in the year in question against users by way of charge to recover to the company the cost of the assets that were in use. They are comparable in that sense, yes.

Q. Now, you recall the evidence by the accounting

witnesses on that subject?

A. A good deal of it, yes. I do not remember all the details.

Q. Well, if I were to suggest to you that the evidence was that you could not make any useful comparison between charges on retirement and renewal accounting on the one hand and charges on depreciation accounting on the other, would you disagree with it?

A. Yes.

Q. You would disagree?

A. I would disagree. I would say you can make some useful comparison. You have to be careful, but there are certainly some useful comparisons.

Q. So that you disagree with such accounting experts as Mr. Dalglish, Mr. Thompson and Mr. Glascoe?

A. On that point, yes. I do not think they said you could not make anything useful at all out of it. They were on a very precise accounting definition.

Q. I will be glad to give the Board reference to those opinions. I do not want to take time up, but Mr. Dalglish in the 20 per cent case at page 345, at page 347-8; Mr. J. C. Thompson at page 463 in the same case agreed with Mr. Dalglish. Mr. Thompson in the 21 per cent case at pages 14,294-5; Mr. Glascoe in the 21 per cent case at page 15,274, on that question.

A. All I am saying is that those figures are useful if what you are interested in is how much was charged up to current expenses in each of these years as an amount to be used to recover to the company the cost of assets that were in use during the period.

Q. I am afraid I didn't hear the first part of your answer, but I want to put this to you and then I

am going to leave the subject because I don't want to prolong it. You agree, do you not, that depreciation accruals represent charges in respect of different assets than do retirement and renewal charges?

A. Different assets entirely.

Q. Yes, do you disagree with that?

THE CHAIRMAN: Would you please repeat that?

MR. EVANS: I was suggesting to the witness that depreciation accruals relate to different assets entirely than charges for retirement and renewal.

A. Not if you take them over a period of years.

Q. I did not ask you that.

A. The comparison here is over a period of years.

Q. Current depreciation accruals, I am putting to you.

A. The current depreciation accruals, yes, but the emphasis here is an average over a period of years. If you take a comparison over a period of years, it is two different ways of calculating the same figure.

Q. Now then, I want to test that. Is it not true that depreciation accruals are currently accrued in respect of assets both old and new that are presently in service at the time of the accruals?

A. The annual charge for that year, yes.

Q. Yes?

A. That is right.

Q. And a retirement or renewal charge in respect of the same year relates to assets that are at the end of their useful life, does it not?

MR. McLEAN: That is a retirement, not a renewal.

MR. EVANS: The charge for renewal relates to the replacements for scrap?

A. That is correct, in that year, but over a period of several years the assets in use year by year are the assets being retired and in time you come to the same figure.

Q. But doesn't your comparison depend on the question as to whether you are able to look over the whole life of your group of assets and make your comparisons?

A. That is correct, yes. All we have here is, the depreciation accounting has only been in operation for nine years, and therefore we look over nine years because we have some history of it. We cannot go any further because we don't have any records any further.

Q. Now then, at page 7 of Chapter V, which is page 80 of the printed brief, this statement appears, "Depreciation is not being used as a process of allocation," and you say it is being used as a means of collecting a sum --

A. Sorry, I do not follow you.

Q. It is about the middle of page 7. Do you see the sentence commencing "If one refers back . . ." just before the recommendations?

A. Yes.

Q. "If one refers back to the definition of depreciation which was quoted at the outset of this section, the criticism is that the depreciation provision is not being used as a process of allocation of the cost of equipment, but that it is being used as a means of collecting a sum in excess of the original basic value of the capital assets."

A. Yes.

Q. Now then, the question I want to ask you about it is: Are you suggesting that the Canadian Pacific is deliberately charging higher depreciation rates than are

needed?

A. Than are needed?

Q. Than they need use?

A. What we are suggesting is that the record period since depreciation went into effect indicates that if those depreciation charges are continued at the present level and for the length of time that represents the average life of the assets, the amounts which will be collected will be larger than the original cost of the assets. Now, I think that would suggest --

Q. No, Mr. Moffat, if you would listen to the question. You use the words here saying that the criticism is that it is not being used as a process of allocation but it is being used as a means of collecting something, an excess. That is, you suggest that we are deliberately using the depreciation process to get more than we should be getting. Is that your suggestion, or do you withdraw it?

A. Well, I can only state what I said before, that if these rates continue the amounts that will be collected will be larger than the original cost of the assets, which is more than they should be in accordance with the definition.

Q. Your answer now deals with the question of whether the rates are proper, whether we have been accurate in estimating the rates, is that not right?

A. That is right.

Q. I am asking you whether by the use of this language you suggest we are using this process for improper purposes?

A. Well --

Q. Do you withdraw any implication?

A. Any implication of impropriety depends on the degree of inaccuracy in the estimates. I think the

suggestion is that the estimates should be checked by somebody outside the railways. There is no suggestion of being deliberately improper I don't think.

Q. Then if there is any implication to be drawn from the suggestion that it is being used as a means, you do not mean that it is being used by the Canadian Pacific as a means of getting more than it knows it should get? Don't frown at it because the question is perfectly clear, and the language you use is bound to have the inference unless you are going to withdraw it now.

MR. McLEAN: I don't think this witness can say that. It is something the counsel can argue on. He has not any authority to withdraw a statement in the Manitoba brief.

MR. EVANS: Does my friend support the inference?

THE WITNESS: Certainly I support the inference that the amounts there, if continued, will in total be larger than the original cost of the asset, yes.

Q. Then all that Manitoba ---

A. That it will be larger. What the motive is I am not arguing any suggestion either way.

Q. Then we can leave it there. Then on page 7 and 8, after this general recommendation that you make, I just want to get this one answer. Do you not agree that in the last analysis the Board has the power to determine the rates of depreciation for rate-making purposes.

A. Do I agree that they now have the authority?

Q. Yes.

A. I don't know sir. I would like very much to find out.

Q. Is the final position of Manitoba that they need some change in their powers in that direction?

A. They need clarification as to whether or not

it will require legislation on the point I certainly ---

Q. Is your advice that it will require legislation.

A. I don't know.

Q. You have not been advised?

A. You will have to speak to counsel.

MR. McLean; I would like to speak to that question of the authority of the Board. Mr. Matheson has handed me a letter which he received from the Board of Transport Commissioners dated April 25th 1949, which was filed as Exhibit 49 in this particular hearing, I think in the Maritimes, in Halifax at the hearings. At the bottom of the second page of that exhibit there is this paragraph, sir:

"The Board is of the opinion that under section 384 it does not have the power to prescribe the form of any and all accounts, records and memoranda or the classes of property for which depreciation charges may properly be included ^{under} operating expenses, and the rate or rates of depreciation to be charged thereon".

That is a statement of the Board over the signature of the Secretary.

MR. EVANS: It is not the Board.

MR. McLEAN: I assume the Chief Commissioner ---

MR. SINCLAIR: He is dealing with that one section. He did not take any other sections of the Act. The matter has never been to the Board on the other sections of the Act which deal with the matter under discussion. Mr. Matheson only dealt with the one question.

THE CHAIRMAN: I know Section 384 is a very long section with five subsections, and subsection 1 alone has about a dozen sub clauses.

MR. EVANS: All I was trying to get from the witness is: was it the view of Manitoba that legislation was needed?

A. Yes, as far as I am concerned, all I can say is that it needs clarification, and that we think they certainly should have the authority.

Q. Now on page 8 of Chapter V (page 81 of the printed brief) there is a suggestion in the language there that I want to get cleared up, just below "The Board Should Determine Policy" :

"In the past this has by no means been clear for in the 30% Case the Board was requested to order the C.P.R. to produce the information lying back of its depreciation formula, but chose to refuse that request -- "

Now then, is there a suggestion there that because the Board chose to refuse a request for material, it lacked the power ?

A. The suggestion is that because they chose to refuse the request, it is not just clear whether they had the power or not. It comes back to the same statement as before.

Q. That is all I want to do, to clear up the inference. You don't suggest they had not the power?

A. No, it does prove whether there was any --

Q. As to the propriety of the rates?

A. No, as to whether or not they had the power to designate. We come back to the same point again.

Q. Why do you couple those two parts together:

"In the past this has by no means been clear for in the 30% Case the Board was requested to order the C.P.R. to produce the information lying back of the depreciation formula, but chose to refuse that request."

The Judgment, through their refusal speaks for itself.

A. But the remainder of that sentence goes along with it,

that when they made their decision they did not specify what the depreciation should be. They just took \$4 million off, which again indicates that they were not too sure as to authority and they did not make a decision as to what the proper depreciation was. The sentence is to be read as a whole.

Q. They nevertheless made a decision as to the rates and method of depreciation in the judgment in September?

A. Yes, but that came out since this brief was recorded.

Q. Now you say on page 9 of the same chapter (page 81 of your printed brief):

" - - the major issue is to keep a clear distinction between money belonging to and contributed by the owners of the corporation, and money belonging to and contributed by the users of the corporation".

Would you tell me what you have in mind there. You are still talking about depreciation in that part of the brief?

A. That point is made at several different places through the brief.

Q. I know that.

A. The thought that is in mind there is this, that one would suppose that argument in any rate case is bound to be a question as to how much money was invested.

THE CHAIRMAN: How much what?

A. How much money was invested by the owners of the company. and the questions that arise then as to rates of return and that sort of thing. It seemed to us essent that when discussion of this kind is started there should be clearly available on the record figures as to how much cash was put into the organization by the shareholders, as

to how much was contributed to them in the form of grants and subsidies and assistance from the Government of various sorts, as to how much of it represents money collected from the users in the sense of money coming out of rates.

THE CHAIRMAN: I notice you refer to that money as still belonging to the users. You say "Money belonging to and contributed by the users of the "corporation". That is the thing you raise, why are the words "belonging to" in there.

MR. EVANS: Yes.

THE CHAIRMAN: "Belonging to and contributed by the users of the corporation?"

A. Certainly those words "belonging to" got in there by a slip.

Q. Then they might be struck out?

A. Yes, the words "belonging to". The point is to have it clearly on the record what was contributed by the user so that when the time comes to face this question there will be available the necessary information to reach a decision. There is no suggestion that arbitrarily and automatically the company might not be entitled to a return of some of this money which is contributed by the users, but that it should be recorded as to how much is involved so that a decision can be reached on it in the light of the circumstances.

MR. EVANS: Let us suppose that the railway company has existed for a sufficient length of time so that every part of its property has actually been replaced, that is the depreciable property has been replaced?

A. Yes.

Q. And it has been replaced through the operation of depreciation accruals, I understand you to say,

A. That is correct.

Q. Now then, is it your view that at that stage the shareholders have no right to a return on the investment because this has all been contributed by the users?

A. No, there is no suggestion that they are not entitled to a return, but there is a suggestion that if that situation has developed it ought to be known, the records ought to be available and it should be taken into consideration as one of the factors in determining what the rate of return to the owners should be.

(Page 8983 follows)

Q. How would you take it into consideration?

A. In determining the rate of return.

Q. Well you would have a different rate of return for it?

A. Possibly. At least you would give consideration to the advisability of a different rate of return.

Q. But surely you are advocating something in the nature of a principle. Now, you must have some view. Would your view be that a lower rate of return would be available on the whole property of the Canadian Pacific because through the processes of depreciation all of its depreciable assets had been replaced?

A. I think probably yes. I have not specifically discussed it among our group and I do not propose to set myself up as an expert on that particular point but I would think the answer is probably yes.

Q. When you say you have not had a chance to think about that, it is one of the major requirements that you think should be carried out?

A. One of the major requirements is that we should know how much there is of each of these categories of capital in the Company.

Q. But you have not considered the implication of one of your major requirements?

A. To that extent, that is right.

Q. Now then, referring to the matter of the Canadian Pacific remaining as a private enterprise a preference for which you expressed yesterday, you got to the point where its entire depreciable property had been replaced from users money in your concept and the return has then on your view to be reduced. Then the credit of the Canadian Pacific as a corporation would be affected by that reduced return, wouldn't it?

A. It would be affected by it, yes.

Q. And to the extent that its return is reduced, it would affect its ability to get new capital in the market, wouldn't it?

A. That is correct, yes.

Q. Then at that time, would it not get down to this, that if you reduced the return basis on your concept, then conceivably the Canadian Pacific would no longer be able to compete in the money markets and could not therefore obtain any new capital it required outside, and would have to turn to government assistance?

A. If it were pushed to the extreme yes, that would be a result.

Q. Well, how are we going to tell?

A. That is the sort of question that has to be taken into account from time as the decision is reached. That is the kind of question that you cannot lay down in rigid formula. It depends on the circumstances at the time.

Q. I do not think I asked you to lay down a rigid formula. I thought you might have some idea of the principle. Have you any further observation to make on that?

A. No.

Q. Now then, in the same paragraph at the beginning of page 82 of the printed brief you say this: "If this is not done" - that is these distinctions are not made and these segregations are not made - "If this is not done, a result may be that the users of the service will be called upon to attract the capital in the first instance and will then later be called upon to provide a depreciation reserve to return to the Company the cost of the assets which have been bought with that capital?. Now then, am I right in assuming that the inference to be drawn from that in view of your earlier answers about the "language used point"

would be that there would be some question as to whether we would be able to accumulate or accrue depreciation upon these assets once they have been replaced by users' money?

A. Yes, the saving to any amount there is a situation of this sort that might happen. Maintenance account being used to pay for improvements, improvements being charged up on the basis of a renewal and charged to the users in that order and then later set up and charged again on the depreciation. That is the sort of situation that that sentence is directed to. The possibility of that sort of situation developing.

Q. I don't want to get at cross purposes with you but does it involve this. If an asset is replaced from accrual of depreciation as you have it the users money is used to replace?

A. Yes.

Q. Would you permit the corporation to accrue depreciation on that asset which was put in to replace the prior asset?

A. Yes - I did not get that point in the first place.

Q. Now then, I was not clear as to exactly what you did mean because you say: "To be called upon to provide the capital in the first instance". That would be the replacement - "And will then be called upon to provide a depreciation reserve", and I thought that meant that you would not permit the accrual of depreciation in respect of any asset that had been replaced through the users' money?

A. No, but there may be other situations. The one I suggested to you is different, the situation where the asset is charged, say as a renewal in the first instance but then put up in the account, then it should not be put in and depreciated.

Q. You mean, during a period of depreciation accounting

an asset is charged up as a renewal?

A. Yes.

Q. Well, that comes to my next question because I was wondering where we were getting. On page 10 the statement is made (it appears at page 83 of the printed brief) - about midway down page 10 and near the beginning of page 83:

"There is no evidence in the rate cases to indicate that renewal accounting is not now being carried on largely as it existed prior to the inception of depreciation accounting"?

A. Yes.

Q. Now are you suggesting that the Canadian Pacific is practicing renewal accounting while it has now embarked on depreciation accounting and that the practice of renewal accounting is going on just as it did before?

A. Yes.

Q. You do. Do you say there was no evidence that that was not true?

A. Not to my knowledge any evidence that proved that is not true, no.

Q. Is not this the case, was not the controversy about the question as to the practice of renewal accounting related to the practice of renewing portions of units?

A. Yes, but also as to the effect which renewing portions of units would have on the length of service life. Taking the two aspects of the thing together, you have a renewing process going on part by part by part and at the same time the total asset being depreciated on the basis of a life calculated as if the parts were not being replaced.

Q. Do you recall the kind of case I put to Mr. Kent in cross-examination on that subject?

A. No, I do not.

Q. Do you recall the case of the automobile owned by a taxi company?

A. No, I do not think I do.

Q. Well, I am going to put this to you. A taxi company accrues depreciation on its motor cars?

A. That is correct.

Q. And it wants to replace a fender on a motor car. A condition, as I understand it, is that the fender is charged to the depreciation reserve. Is that your view?

A. Pardon.?

Q. The cost of the new fender is charged to depreciation reserve and not to expenses?

A. It depends on which retirement unit you are dealing with. If you are dealing with the automobile as a total, that is another thing. If you are dealing with a retirement unit that deals with fenders, that would be the one.

Q. Of course it is, and doesn't it come down to this, that if your system of depreciation is related to units such as a whole automobile or a whole locomotive or a whole building that a replacement of a part of that unit does not necessarily become chargeable to the reserve unless the rate, in the first instance, was fixed so that it would provide for that kind of replacement?

A. That is right, but in your automobile case, if you replace the fender and you replace the motor and the wheels, the first thing you know you would have practically replaced the complete automobile, so that it will last for twenty years. Because of this kind of a replacement programme^{if}/your depreciation rate had been estimated on a ten year life, then there is something wrong, but if you are following this policy of replacing bit by bit, then the rate in the depreciation calculation has got to be based

on the length of life that the thing will have with that sort of maintenance going on. You can't take an ordinary life of an automobile with that kind of thing.

Q. Now you said there was no evidence on that question before the Board of Transport Commissioners?

A. Oh, there was plenty of evidence on it, yes.

Q. And will you say there was no evidence contrary to the suggestion you made at that time?

A. There was no evidence that satisfied us that it was not being done.

Q. But you apparently did not satisfy the Board of Transport Commissioners?

A. No, I think that is true, yes.

Q. Now then, you say at page 11 of Chapter V (page 83 of the printed brief) that:

"Renewal accounting was used by the Canadian Pacific Railway for something over 50 years for all assets and for over 70 years for road property and apparently proved to be reasonably satisfactory"?

A. Yes.

Q. Why do you say "apparently proved"?

A. Because it remained in effect for that long a period.

Q. Do you reject the evidence that was adduced to show why it was necessary to change that, or had you forgotten that?

A. No, so far as the change over of rolling stock is concerned or the change-over to depreciation in the cost of rolling stock, we were satisfied that the change was justified. So far as the change-over in the case of the road structures items were concerned, we were not satisfied for the reasons which are given here. This section from which you are quoting is an analysis of the arguments on

both sides as to whether those kinds of assets should be set up into a reserve or should be paid off immediately in the year they come into replacement and written off the books and done with it, so that there would be no possibility of any controversy of the sort we got into a few minutes ago.

Q. But when you say "apparently proved to be reasonably satisfactory" you overlooked the evidence of the accounting officers to the effect that it was no longer satisfactory, did you not?

A. Well, there was evidence that it was no longer satisfactory, yes.

Q. Now you go for renewal accounting -

THE CHAIRMAN: Pardon me a moment. It says here "Part of your property".

MR. EVANS: Property is divided into two parts that is called "Non-appreciable road property".

THE CHAIRMAN: What does that consist of?

MR. EVANS: Road equipment and grades and other things of that kind. The track structure itself is maintained and charged to expense because it is a short life asset.

THE CHAIRMAN: The other is still on a renewal basis?

MR. EVANS: Yes, the Interstate Commerce Commission is considering at the moment whether some agreement can be worked out for renewal accounting for that too.

THE CHAIRMAN: Who is studying?

MR. EVANS: The Interstate Commerce Commission. If you believe in renewal accounting for road property would you also believe in renewal reserve accounting for road property?

A. Wherever there is a big asset coming up for replacement that is going to be of such size as to disturb

the continuity of the account, yes.

Q. How would you fix the size of the asset?

A. Well, I don't know how you would fix it precisely but there may be those kind of situations, although the record of the past which we quote in here to some extent as to the matters which were renewed and retired year by year back to the early 1920's indicate that there had not been any material portion in the annual rate of replacements and retireals of assets coming into this road account.

Q. Would you not expect ^{with} an asset that has a life of about sixty years, that there would be very, very few retirements of assets in the first forty or fifty years?

A. Yes, and particularly if they are handled the way the Angus Shops are being handled, a piece of a roof or something like that as you go along.

Q. I asked you a question and you put in some gratuitous material. I asked whether you would not expect in the case of assets having long life of say sixty years that the number of retirements would be very small in the first forty or fifty years?

A. Yes.

Q. And doesn't it follow that perhaps at the end of sixty years to seventy years the retirements come in with a rush?

A. That is right, that might happen but it is seventy years now since a good part of this track was laid down. We have got a fairly long history there.

Q. Track?

A. The structure really.

Q. The track is not depreciable property, Mr. Moffat.

A. Well, things like tunnels and subways, bridges, trestles, fences, snow sheds and signs, all those things have lived out their lifetime once - roadway buildings, a good many of them, grain elevators, coal wharves and docks,

ore wharves. The list is all there and a substantial proportion of them have had their lifetime.

Q. Isn't it a fact that the longer lived the asset the more likely the bunching?

A. No, not necessarily, the more likely the bunching the smaller the proportion of it that will have to be repaired every year.

Q. We are all agreed the more likely we are to bunch if you build a railroad complete in a given area and the fixed property assets are going to last sixty years, they are going to --

A. Well, the C.P.R. was not built in one year; it was spread from coast to coast.

Q. Are you desirous of arguing with me or have you got the time, because I have not got the time. You did not even hear me put my question.

A. Would the reporter read the question?

---(Reporter reads the question.)

Q. -- they are going to find a bunching on retirement?

A. That is correct if you restrict it to a given area, but the history of the C.P.R. is not that. The history of the C.P.R. is that the building of it was spread over such a long period that replacements are going to come up scattered along in a few years over a certain period.

Q. Then it is the bunching of retirements that brings about the desirability either of reserve accounting or depreciation accounting?

A. That is correct.

Q. And it is to piece out those holes in the bunching that you require the reserves?

A. Yes, and I think I should point out that our

suggestion here, Mr. Evans, is that it is not arbitrarily to put on this road the items indiscriminately -- that there should be a study of them group by group and that any of them where there is this serious amount of this bunching, that they could be on depreciation, but that they could not all go on depreciation.

Q. Now then, if you agree that this renewal accounting may involve renewal reserve accounting, would you agree with Mr. May, the accounting expert we called in the 21 per cent case, that that was more expensive than depreciation accounting?

A. What was more expensive?

Q. Renewal reserve than replacement reserve accounting.

A. Why should it be any more expensive?

Q. I was asking if you disagreed?

A. I cannot agree or disagree. I would have to consult on that one.

THE CHAIRMAN: Did Mr. May give any reasons there why it would be more expensive?

MR. EVANS: Yes, he was being cross-examined by my friend Mr. McLean.

THE CHAIRMAN: Perhaps Mr. Moffat had better hear this.

A. Sorry.

THE CHAIRMAN: This is what Mr. May said.

MR. EVANS: I had better read the whole question by Mr. McLean and the answer. Page 15,543 of the transcript of the 21 per cent case. This is Mr. McLean speaking:

"You say in your book that in your own opinion where property has a probable useful life considerably exceeding 25 years it is of less

defensible than where the unexpired life is fifty years or more, a provision for depreciation on a straight line basis -- or perhaps on any basis-- is theoretical and unrealistic. Do you agree with your own words?

"A. Absolutely, of course. You must consider them in relation to the alternatives, to give them any weight.

"Q. Alternatives, that is, retirements.

"A. No, they are not. I condemn the retirement method. They are using reserves for replacement which is what the English railways have always used ever since the Regulations of Railways Act of 1868. That contemplates there shall be charged against revenue the entire cost of maintenance and modernizing the railroad. That is to say, charged theoretically. I do not know whether it is always practicable or was intended to provide for the foreseeable replacement within a reasonable term, on the basis of the present cost of replacement, and allowing for the fact that the replacing unit should have the same degree of relative efficiency at the time of its installation as the original unit had when it was installed. If you want to go to that I would say that was perhaps superior to depreciation, but it is a lot more costly to the shipper."

A. Yes, in the short run it is more costly, in the sense that it is total additional cost of the renewal which will be charged up in the first few years, whereas in depreciation it would be spread over its full life. There is an argument presented here and I think it is a

sound one for saying that that is desirable from the point of view of the country as a whole that in those years when prices were high the replacements were being put in at a high price.

Q. You know, strangely enough you and I could agree on that if we could find some solution for this bunching problem and that requires either reserves or accrued renewals?

A. No, it may mean some type of assets where the bunching is important that comes out in the depreciation group. It is a question of studying this list here of depreciable road property and picking out the ones where the bunching is important and handling them on depreciation, but not handling this whole thing on depreciation.

Q. Well, at all events, the Interstate Commerce Commission requires railways to have depreciation for depreciable road properties?

A. Yes.

(Page 9005 follows)

Q. Now, did not Manitoba support retirement accounting for road property at one time?

A. No.

Q. They did not?

A. No. There was a misunderstanding on that, of which we were both perfectly aware.

Q. You are not suggesting I was aware of it?

A. You are aware of it now.

Q. I am not.

A. What was suggested was that there should not have been any change, that it should be continued on the basis which was always in existence, and the understanding was that that was retirement, and that point was cleared up after quite a substantial controversy.

MR McLEAN: Here we go again.

THE WITNESS: Here we go again.

MR EVANS: Q. Page 12541, if you want to have your people look it up.

A. I would suggest, Mr. Evans, that the proposition which Manitoba is advocating in here is renewal accounting. Whether there was some misunderstanding in the past is rather irrelevant to the controversy as to what should be done in the future.

Q. Now, Mr. Kent, who appeared in the 20% case for the Province of British Columbia, agreed to depreciation accounting for road property, did he not?

A. As I recall his evidence, he agreed, yes, if you could get proper rates and get proper records and proper information to check it, yes.

Q. That is all anybody wants.

A. That is all.

Q. Have the Canadian Pacific ever failed, in your view, to face the issue as to whether the rates would be

proper or not?

A. They have in some cases failed to produce information which we thought was necessary to check.

Q. Which the Board thought unnecessary?

A. The Board gave some indication that they were not sure whether they had the authority to deal with the question and make a finding on it.

MR McLEAN: The Board refused it; twice they refused it.

MR EVANS: Q. What I was going to say to you was that Mr. Kent was the only accounting witness--

THE CHAIRMAN: What is the name?

MR EVANS: Q. Mr. Kent was the only witness in the 20% case who appeared and gave evidence about depreciation for the provinces?

A. In the 20% case?

Q. Yes.

A. Yes.

Q. And he agreed that depreciation accounting was proper for road property?

A. On the basis which I just indicated, yes.

THE CHAIRMAN: Q. On what?

A. On the basis which I just indicated. He said that he thought depreciation accounting was proper if you could get satisfactory records of how long the equipment was likely to last, as to what the proper rate should be, and so on, yes, which is no different from the position we are taking here.

Q. He thought then it was proper for certain kinds of property? A. Yes, which is exactly the same position we are taking here.

MR McLEAN: A question of degree.

MR EVANS: Q. He did not qualify as to what kind

of property; he said depreciation accounting was proper for road property; he did not say what kind of road property, did he?

THE CHAIRMAN: Mr. Moffat said he put an "if" into it.

THE WITNESS: Yes, if the proper records were available to determine what was the proper rate. There has been a great deal of controversy as to whether records are available as to the life of some of these assets.

MR EVANS: Q. I do not want to spend too much time, but the reference is to the 20% case at page 3297, and the qualification did not have to do with the kind of property at all?

A. No.

Q. The qualification appears at 3247, where he said that he would want to exclude renewals if you want to have depreciation accounting for road property?

A. Yes, that is perfectly consistent.

Q. But as a principle he preferred depreciation accounting for road property?

A. If the rate was correct, yes -- always that proviso was in there.

Q. That goes with me, too. In Chapter VI at page 4, page 91 of the printed brief, this statement appears, near the end of the page in the printed brief and near the top of the page in the mimeographed brief -- you deal there with maintenance, and this concluding statement appears:

" . . . and that the 1939 standard of maintenance had been sufficient to make possible an excellent rail service during the war years."

Now, is Manitoba offering the suggestion or the opinion that the standard of maintenance in 1939 carried us through the war?

A. No, but it formed the basis upon which the war traffic was carried. It was where we started from through the war.

Q. Maintenance is an annual thing, is it not, Mr. Moffat?

A. The standard is not an annual thing; the standard is what you have got plus whatever you add on top of it from year to year.

Q. Do you suggest that the 1939 standard was the standard which existed throughout the war?

A. No; it was the standard with which we started the war.

Q. What evidence have you to offer that the 1939 standard of maintenance had anything whatever to do with the ability of the railways to carry on through the war?

A. The fact that that was the plant they had when they started the war, the one they had in 1939.

THE CHAIRMAN: Is there some confusion about the word "standard"?

MR EVANS: Yes, sir, because there was evidence in the 20% case, very cogent evidence, lots of it, that the standard of maintenance in 1939 was low, abnormally low.

THE CHAIRMAN: But I think Mr. Moffat means whatever condition you were in then.

Q. Isn't that it?

A. That is right, whatever condition they were in then.

THE CHAIRMAN: The word "standard" is probably misused here. The word "standard" indicates something that should go on or has gone on.

THE WITNESS: There is no suggestion of that intended.

THE CHAIRMAN: Normal.

THE WITNESS: There was no intention of that, sir.

THE CHAIRMAN: Q. You did not mean that?

A. No, sir.

Q. He means the condition of maintenance, probably; is that right?

A. Yes, that is right.

THE CHAIRMAN: Instead of standard of maintenance; the condition of maintenance in 1939 was sufficient to make possible an excellent rail service during the war years.

MR EVANS: The inference in this whole brief is that because there was a rise in expenses from 1939 to 1947 and 1948 of a certain amount, there might be a suggestion of excessive maintenance in the later years because of the greatness of the increase. Now, the brief on this same page purports to paraphrase the position we took on that point, but the brief ignores the strong position we took, that 1939 as a basis from which to project what proper expenditures were in later years was wrong, and the plain inference from that statement, read in conjunction with the balance of the brief, is that the 1939 standard of maintenance was a proper basis upon which to project the propriety or otherwise of maintenance in later years.

THE CHAIRMAN: You yourselves had said so.

MR EVANS: No, sir; we say it was not.

THE CHAIRMAN: But I say you imply that you yourself put that forward.

MR EVANS: Yes, and the point of my question is to find out whether Manitoba adheres to the view that the standard of maintenance in 1939 was a reasonably normal standard of maintenance.

THE WITNESS: No; there is no position taken on that whatsoever. There is some evidence offered here as to how much was spent on maintenance in the years immediately prior to 1939, but there is no position taken here, and it is

pointed out in the very next paragraph to the one you read that the C.P.R. contended that whether or not the present standard of maintenance was higher than that of 1939 was irrelevant. I think it is a bit exaggerated to say we ignored your argument on that. It is stated right there that you did not agree with the 1939 standard of maintenance. I tried to give the two sides of the argument there in short form.

MR EVANS: Q. I am not going to argue with you. But when you say they contended that whether or not the present standard of maintenance was higher than that of 1939 was irrelevant, it rather suggests that we were contending that the standard of maintenance of 1939 was too low; you said that is irrelevant. I am not going to argue with you, as long as we get this, that you are not seeking to create any inference by that paragraph I have referred to that the 1939 standard was a normal, reasonable standard of maintenance?

A. No, but we are trying to create the inference that there was an improvement above 1939 during the period, and that somebody has to decide whether the 1939 standard is the one we should have, or something higher than that, or what adjustment should be made.

Q. You agree that there was substantial evidence that 1939 was abnormally low?

A. Well, there was evidence, yes; I do not know whether substantial.

Q. Well, was there any evidence to the contrary?

A. There is the record of the years immediately prior to that, when the amount spent was about the same, yes, and there was no evidence at all as to whether or not that standard of maintenance was good enough to provide the kind of service that was satisfactory for the country.

Q. Do you recall the exhibits filed by Mr. Emerson on that subject?

A. Some of them, yes.

Q. There is one further question on maintenance I should like to put to you.

I should like to put into the record at a convenient place the references to these exhibits I have been talking about. Exhibit 49-41 to Exhibit 49-46 inclusive were put in by Mr. R. A. Emerson, and dealt with the physical volume of maintenance done over a long period of years. Then Mr. Newman, as to equipment, Exhibits 49-52 to 49-57 inclusive.

MR. McLEAN: I think, Mr. Chief Commissioner, at this place I should say, those exhibits taken alone would, I think, perhaps not tell the whole story, and if they are to be considered they will have to be considered with the cross-examination of Mr. Newman particularly, because it subsequently transpired that these exhibits -- and I am now calling on my memory -- related to about 61% of the expense --- Mr. Emerson, 61% of the expense -- and where we thought examination should be made was in the 39%. Mr. MacPherson extensively cross-examined Mr. Emerson, and it was only after cross-examination that we found that an inference was being drawn that this situation was the same throughout the whole of the maintenance expense.

THE CHAIRMAN: You say that there is no information in these exhibits about the 39%?

MR. McLEAN: No; they do not cover it at all.

MR. EVANS: They deal with rail, track, ties, ballast, and other track material, track laying and servicing -- all that sort of thing.

THE CHAIRMAN: Making up, according to Mr. McLean, 61%.

MR EVANS: Mr. McLean may be right as to the percentage, but Mr. Emerson---

THE CHAIRMAN: What would the 39% be comprised of?

THE WITNESS: It is the items that are listed primarily in the depreciable road category that were not dealt with.

MR EVANS: Mr. Emerson, of course, said that what was true of those was equally true of the others.

MR McLEAN: Yes, but he just simply made that broad statement, without backing it up with any information, and then Mr. MacPherson cross-examined on certain items, and it was our submission that Mr. Emerson's statement did not stand up in the light of what was adduced in cross-examination.

MR EVANS: I will give the Board a reference to where Mr. Emerson said that was true also of the others.

I am almost through; I think I can perhaps finish.

Q. Do you think it is wrong for management to curtail maintenance in poor years and to increase its maintenance in high-volume years?

A. No, no criticism of that whatever.

Q. As a matter of fact, that is a customary practice of railroads in the United States as well?

A. And quite desirable, I think, from the point of view of all concerned, yes.

Q. It does make it very difficult, does it not, to apply anything like the Yager formula, for a substantial growth in traffic between years sharply removed from one another?

A. No, I do not think so, necessarily.

THE CHAIRMAN: What is the Yager formula?

MR EVANS: The Yager formula I am afraid is a discredited formula that sought to indicate rules of thumb

for estimating the extent of increase in expenses due to a given increase in volume of traffic. The reason I say it is discredited is that the committee which put it forward has now abandoned it. It was put forward as Exhibit 169 in the 21% case, and used by a witness for Manitoba to attack the maintenance. The presentation was this, that because in 1939 so much was spent, if you increase for the increase in price and you apply the Yager formula for increase in volume, you should come out at the end with some idea of what the expenses should be in the later year.

THE WITNESS: There is a reference to it, sir, in the brief here, in the quotation from the 30% judgment.

THE CHAIRMAN: Does your present question raise again anything having to do with the comparison of the straight line and user methods?

MR EVANS: No, sir.

THE CHAIRMAN: Whichever method is pursued, your question would still be pertinent?

MR EVANS: Yes; it has nothing to do with depreciation; it is maintenance.

THE CHAIRMAN: Oh, I thought it was depreciation.

THE WITNESS: I wonder, Mr. Evans, if I might add a little bit more to what you have just said. He used the words "a discredited formula", and I think a little bit more should be added.

THE CHAIRMAN: Q. Who used that word?

A. Mr. Evans. The Yager formula was first brought into this discussion by Mr. Macdonald when he appeared as an accounting witness. It was used to suggest that if traffic volume increased by say 60%, expenses for maintenance would increase by a smaller percentage, and the figure was quoted as 39% in the case of maintenance of way -- 33%, I am told, in the case of maintenance of way, and 50 in the

case of maintenance of equipment. The argument that went on did, I think, to some extent show that those particular percentages were probably not applicable when traffic volume was as heavy as it is now, but there was nothing to disprove the fundamental idea that when traffic volume goes up maintenance expenses will go up by a somewhat smaller amount, and there was extensive argument as to what that percentage ought to be. I think that that should probably appear on the record by way of explanation of this "discredited". "Discredited" applies only to the particular percentage that happened to appear; it does not apply in any way to the method of going at the thing.

MR McLEAN: Mr. Chief Commissioner, Mr. Evans has just drawn my attention to the record in the 20% case at page 923. This was in examination in chief, and this is just a paraphrase:

"Items reviewed in those exhibits comprise 61% of maintenance of way and structures. Other 39% would follow same pattern."

That was just at the end of his examination in chief.

MR EVANS: I do not know whether the Commission wants me to finish; I will be only a few minutes.

THE CHAIRMAN: Yes, go on.

MR EVANS: Q. Now, I would like to ask you a question or two about the matter of financing by equipment trust certificates. These are serial---

THE CHAIRMAN: What page are you referring to?

MR EVANS: The reference is to page 5 of Chapter VII, but I am not picking out language at all. That is page 100 of the printed brief, where there is reference to the use of equipment trust certificates for financing.

Q. Those equipment trust certificates are serial maturities?

A. That is correct, sir.

Q. And the extent to which a company can use those depends upon the number that it has to meet serially each year?

A. That is correct, yes.

Q. So that if you had ten serial payments, and you come to the time when your serial payments are equal to your new financing, you stop using them?

A. Yes.

Q. Now, that does put a very definite limit on the ability of a railway company to---

A. That is correct; I think the brief indicates that.

Q. I just wanted to get that clear with you. Now, you also deal with the use of surplus for financing improvements?

A. Yes.

Q. Where you speak of an improvement fund, is it part of your suggestion that that improvement fund, which we think is really surplus, should be tax free?

. Well, you will notice one reference yesterday to the tax aspect of the thing.

Q. Well, what is the answer?

A. We have discussed it some. We have not been able to follow through entirely the tax implications of it. It seemed to us that there was at least a possibility that a fund of that sort could be created as a sort of trust fund creditable to the users of the service, and as such be tax free. We have not followed it through the implications entirely.

THE CHAIRMAN: Then the system mentioned in that paragraph means the borrowing of the money.

COMMISSIONER INNIS: Q. This is the equipment trust certificate.

THE WITNESS: The equipment trust certificate, yes, it does.

MR EVANS: No, no.

THE CHAIRMAN: Well, it says the method has been used quite extensively by the C.P.R. in the form of equipment trust certificates under which a given piece of rolling stock is pledged to the creditor. Who is the creditor?

MR EVANS: I am afraid I am at fault. I was asking him about surplus, without having drawn---

THE CHAIRMAN: This is my question; I want to be enlightened as to the meaning of this use of equipment trust certificates. To whom are they pledged? It says they are pledged to the creditor; who is the creditor?

MR EVANS: The position is this: When equipment is bought the title to the equipment is transferred to a trustee direct from the builder of the equipment, and the trustee issues equipment trust certificates, or what they call certificates of interest in the trust, which are sold, and these certificates usually bear the guarantee of the railway company.

THE CHAIRMAN: To whom are they sold?

MR EVANS: They are sold to the public.

MR McLEAN: They are like a bond mortgage.

MR EVANS: Yes. A necessary part of this is that the owner of the equipment, which is the trustee, leases the equipment to the railway company, and the rentals paid are equal to the principal instalments and interest called for by the securities. At the end of the time, when everything has been paid, the lease contains a provision that the lessee will redeem the equipment by payment of one dollar, and he gets his discharge and he pays his dollar and he acquires title to the equipment.

THE CHAIRMAN: And everybody is happy. Yes, I see.

MR EVANS: Q. Now, on this question of financing, at Chapter VII, page 2 -- page 98 of the printed brief -- you list three methods available to corporations generally?

A. Yes.

Q. That is to say, the sale of securities in the capital market, the pledging of specific assets, and the application of accumulated surplus?

A. Yes.

Q. Now, on pages 5 and 6 -- that is page 100 and 101 of the printed brief -- you refer to the use of surplus in financing, and you say there are two basic objections to the use of accumulated surplus. Now, on page 7 you speak of this improvement fund; when I say page 7, I refer to page 102 of the printed brief. Now, just collecting those to get you the position from which I want to go, is it your opinion that this improvement fund would be collected irrespective of whether freight revenues were buoyant or not, that is, in good times or bad times? Is that what you think?

A. As I pointed out yesterday, Mr. Evans, that suggestion was thrown in there, not with the intention that we would advocate it as such, but rather to indicate the importance which we think properly belongs to this question of financing the railway, and to recognize the fact that that is one of the root problems of the whole thing, and to indicate that we think someone should try to figure out something somewhat out of the orthodox if necessary in order to try to do something about it. It is not suggested that that particular thing should be done, but to indicate that there was need for some elbow room someplace, and that this is one of the possibilities to be considered.

Q. What I am concerned about is, how would you provide

essential capital funds in a time of depression?

A. Well, I think the chances of providing them by this way are probably better than the chances of providing them by some of the other methods that are available.

Q. Then it follows that you would have some money set aside regardless of depression or high volume?

A. I think so.

Q. In depression and all years?

A. I think so.

Q. For this improvement fund?

A. I think so.

Q. Would that be in addition to the necessity for paying dividends and return to capital and fixed charges and so on?

A. I think it might conceivably be two separate questions.

Q. Well, it would be in addition, wouldn't it -- or would it?

A. In some respects -- if a fund of this sort were being used it would be in the nature almost of a tax, so much being taken from the freight payers and set aside in a separate fund which would never go into the company revenue at all, so that it would be a separate amount altogether from the other company revenues.

Q. In a year in which you had to choose between a return to the owners and that fund, you would give priority to the fund?

A. If you are using that kind of fund it would have to be a fixed percentage of gross revenue, something of that sort, over a period of years, yes.

Q. Now, assuming that a fund is built up in good times, when the rates are sufficient for the purpose, what would you suggest should be done in periods when rates are

insufficient about that fund? If I got you correctly from your previous answer, you suggest that in poor times they would draw upon the fund to make good deficiencies or---

A. No; the fund would be a capital fund only.

Q. They would still continue to fix rates; they would have to raise rates in depression times if necessary to provide for this fund?

A. Quite possibly, it might lead to that; if that sort of thing was being done, it would have to be done continuously over a period, yes.

Q. Now, in Chapter VIII---

THE CHAIRMAN: ^{Q.} Before going to that: I see you refer to this fund as a source of capital for the railway?

A. Yes.

Q. What is the ultimate fate of this fund? I notice you guard yourself, answering my question, by saying you have made no attempt to analyze all the implications of this suggestion?

A. Yes, that is one of the implications of it to some extent, because if it carried on for a long enough period it is fairly obvious where it leads to. If that fund was to run say eight or ten million dollars a year or something bigger than that for twenty years, the users of the service would soon have a very big stake in the equity.

Q. Whom does the fund belong to? If you had to find an owner for it, whom would it belong to?

A. That would be one of the very bad questions. That is why I say this particular suggestion is not so much a suggestion on its own merits as a suggestion that something a bit out of the ordinary may have to be taken into consideration and experimented with in meeting this problem of financing improvements, which is one of the most important problems in the whole thing.

AFTERNOON SESSION

Thursday, November 17th 1949.

R. E. MOFFAT RECALLED

CROSS EXAMINATION BY MR. EVANS RESUMED

MR. EVANS: Mr. Moffat, would you look at page 4 of Chapter IX which is part of pages 115, 116 of the printed brief. You rather suggest that because approximately 80% of the expenses are alleged to be variable with traffic, that a rate which is 80% below the normal rate may be considered as prima facie at least, not compensatory?

A. Yes, I don't think it is quite as strong even as that. I think I restated the intent of this once yesterday. It is a suggestion that if there has been that type of increase in the percentage of the expenses which are variable with traffic, then it follows that the justification for competitive rates is correspondingly less than it was under the former condition. Now, there may be some suggestion, as you phrase it, prima facie, that those are unprofitable which are lower than 80% of average. I do not think it necessarily follows through that that would apply to individual commodities. It is simply a suggestion that that should be looked at.

Q. The way you put it here is that if one looks at this situation in relation to the argument presented in connection with competitive rates, the conclusion is that if the proposed competitive rate is less than 80% of the normal rate then the return they took from the traffic entirely eliminated the cost element. Now, I understand your answer to mean then that you are not taking quite that extreme position?

A. That is correct.

Q. Because later you point out or suggest the fact that

some of these rates are probably not compensatory, that the percentage of the standard rate as represented by the competitive rate is as low as 30 to 40%?

A. Yes, certainly there is no intention of suggesting that anything that is below 80% is automatically in the category of non-compensatory.

Q. Would you go so far as to say that prima facie it would be?

A. Well, prima facie, they would be deserved to be examined. I think that is about as far as we would want to go.

Q. May I put this to you, that there might be weight to that view if the normal rate were based on cost?

A. Yes, that is it.

Q. Now, we know that in this case we are dealing with a value of service principle in rate-making and not a cost of service principle?

A. Well, a combination of the two.

Q. Well, I think we understand each other, that it is not altogether value of service, that it is not altogether cost of service?

A. That is correct.

Q. I think we agree this far that the high grade traffic is probably contributing very substantially in excess of the cost of handling it, taking the class rates?

A. I would not agree with that necessarily.

Q. You would not agree with that.

A. No.

Q. Have you made an analysis to disprove it?

A. Not in detail, but take the traffic that moves in first and second class.

Q. Yes.

A. A substantial part of it is a category of traffic

on which costs are already quite high. They are just on general appearance, L.C.L. traffic and packaged goods and things of that sort, where you have a fairly heavy terminal cost, loading costs, and handling costs, and the paper work that is involved, that sort of thing.

1. But if a car load rate, for example, were yielding as high as 7 and 8¢ per ton-mile, would not you then agree that that was probably in a class that was prima facie making far more than any other?

A. No.

Q. You would not agree?

A. Not without looking at the cost, I don't think.

2. Would you say this. You have never made a study as to that?

A. No, except that you have the evidence on the one case that always impressed me, the record of the American roads with their coal traffic, a very low rated commodity but one that is still showing the highest profit return probably of any roads in the United States. And other things, grain traffic in the West which is a reasonably low rate, but certainly we would not admit that it is an unprofitable rate.

3. Well, would you say that one would consider as prima facie a non-compensatory rate a rate that yielded as low as 24% of the regular class rate?

A. No, not without looking at the cost factor.

Q. So you don't wish to convey by this reference to these competitive rates that any case can be made against the compensatory character of these rates merely by making that test you apply here?

A. No, that was not suggested. as a test in this sense, except to indicate that those are the kind which might justify being looked at.

Q. Yes, I rather got a different impression from your brief. Now then, you knew of course, (perhaps you did not know) that the grain rate happens to be about 24.4% of the eighth class standard mileage scale?

A. By that kind of measure it is one of the low rates.

Q. I am not referring exclusively ---

A. But the question is the cost factor.

THE CHAIRMAN: Would you please repeat that for me?

MR. EVANS: On the Crows Nest Pass grain rate, I took for example Regina to Fort William, 776 miles, and 20¢ represents 24.4% of the eighth class rate, which is the ordinary rate under which grain is classified. Just for the purposes of the record, the mileage scale and the commodity mileage scale applicable to grain (commonly known as the domestic grain rate) is 50% of the eighth class rate.

THE CHAIRMAN: How does it come to 50%? Is that a commodity rate?

MR. EVANS: It is a commodity mileage scale applicable to grain and it works out at 41¢ from Regina to Fort William as compared with the eighth class rate of 82¢. Now then, in Chapter X, Mr. Moffat (I have very few questions I want to ask you about that) on pages 2 and 3, which will be found at pages 126 - 7 of the printed brief: there you have been dealing with, in the first case, Exhibit 326?

A. Yes.

Q. In the 21% Case. What in effect you have done in your appendix which became Exhibit 119, is to bring that study down to a later date?

A. The first four pages of that calculation, yes.

Q. Yes, that is Exhibit 119.

A. Yes, the first four pages of Appendix B.

Q. Yes, but now then, there is this difference between them, that in Exhibit 119 you eliminated the grain rates entirely?

A. That is correct.

Q. Now then, I understand your brief to argue that the purpose or the justification for eliminating grain is that it is of no concern to you where you have to remove your grain both on Eastern and Western lines?

A. It is no concern to us? It is entirely of concern to us. It is of no concern to anybody else.

Q. Perhaps I misunderstood your brief. Will you tell me why you have eliminated grain rates?

A. Because the raising of grain rates in Eastern Canada, as has happened by 30% in this period, is raising rates which ultimately fall upon Western Canada.

Q. Yes?

A. And consequently raising the Eastern grain rates is in no way equalizing the level of rates between Eastern and Western Canada.

Q. Yes?

A. Any of those rates which we pay on our shipment from the West should be eliminated from a study of that sort if possible. It seems to me grain is one we can get out. If we could get out the livestock products rate on meat, for example, from the St. Boniface Packing Plant to Montreal, which is a rate also we feel we pay, we would have preferred to have that one out. An thing of that sort, as Commissioner Innis pointed out yesterday, is the sort of rate the burden of which falls on Western Canada. Consequently in comparing rate levels it should go out if possible.

Q. Actually it would be better if you could eliminate

all East-West traffic entirely.

A. That is right.

Q. And I think you would agree that again it would be better if you could eliminate all international traffic also?

A. That is right.

Q. And it is these difficulties which you and I discussed in the 21% Case?

A. Yes, at considerable length.

Q. Now, I am just going to put this one thing to you. I am not going to take you all through that, you will be glad to know. I just want to put this to you, that when you consider disparities, or perhaps it should be relative burdens?

A. Yes.

Q. The level of rates enters into a consideration of the policy. Now, I am not talking about distance but I am talking about level.

A. Yes, well, I would not elaborate that.

Q. I think it must be, yes. So that if you want to measure disparity or burden, I suggest to you that you cannot get a true picture unless you consider the advantages enjoyed by the West as compared with advantages or disadvantages (as the case may be) enjoyed by the East?

A. That is correct, yes.

Q. Yes, now then there is one other aspect at pages 4 and 5 of Chapter X. You said under the heading ---

THE CHAIRMAN: Give me the page in the printed copy.

MR. EVANS: 128, my lord. You spoke of the danger that the differential will be greater in the future?

A. Yes, that is the thing we are primarily concerned with

Q. And is it fair to say that the substance of that section, shall we call it a section, the substance of that section is the danger that the competitive rates which have now, as you say, been temporarily raised, may again come into prominence in eastern Canada to a greater extent than in western Canada?

A. Yes, that is the subject it is concerned with there.

Q. I want to get to the meat, to the substance of what you are fearing. The fear is that the disparity will be restored or come back because of the danger that competitive rates will again come into greater prominence in the east on a lower level?

A. That is the general problem. There are a few specific points where we are asking that something should be done specifically to bring about equalization but the major problem is the one you are describing.

Q. I will come to equality again, but I am talking about this particular paragraph and my understanding is that your fear results from the fear that this competition will produce this lower rate?

A. Yes, sir.

Q. I take it, then, that the basis of your fear is that any disparity which is the result of competition, is something which you consider to be a disparity which ought to be removed?

A. I am sorry, can I have that again?

Q. If your fear is that competitive rates will again produce this so-called disparity your fear must be that if competition produces this lower rate, you will be at a disadvantage because of that situation?

A. Oh, yes.

Q. Now, then, is that also the position if the

competitive rates meet the criteria which you adopt in your brief?

A. It is considerably less serious if they meet the criteria that are suggested in our brief. On the other hand, conceivably if a substantial proportion of the traffic is in that category, if it is being carried at barely out-of-pocket costs and not meeting the fixed cost element, you can get into a situation in which one area is showing losses and the resulting shortage of revenue, shall we say, is the reason for an application for a general increase across Canada as a whole, and that problem certainly is one on which we have very strong views. In fact, you really have two problems. You have the problem of the individual rates meeting this criteria and you have a separate problem of those types of rates being bunched in one area.

Q. Yes. Now would you choose, if you had to, the -- supposing the competitive rates were bunched in the east, the condition of competition again becomes acute and the competitive rates again become bunched, let us suppose they meet your criteria. They are compensatory in the sense you describe in your brief?

A. Yes.

Q. Is it your view that we should overcome that and that traffic to the west should get a smaller range of rates?

A. Neither one, sir.

Q. That is your suggestion?

A. Our suggestion is that the western rate level, if that situation has developed, could be set at a level which will pay operating costs in the west and that the west be left alone, that there be no move to raise western rates and that some other solution be sought. We are not

making any other suggestion except to say this may be a subsidy that is involved.

Q. The competition demands that the rate be at a certain level and those rates are making up much more than their out-of-pocket expenses and therefore either we have the choice of losing the traffic by raising the rates and losing some of that revenue or we have to carry it. Now, in your philosophy, the west should not in those circumstances have any increase of rates and the need for increased rates in the east should be taken care of by a subsidy?

A. In a sense it always has been taken care of by a subsidy in the form of rates in the west higher than were necessary in the west, which created additional revenue which was within the C.P.R.'s use to subsidize the east and what we are asking now is that that sort of subsidy should be stopped and some other sort of subsidy should be used in its place.

Q. I think we should deal with that for a moment --

THE CHAIRMAN: Pardon me. About the second sentence at the top of page 128, I read:

"We would point out, however, that in their second application for a 20 per cent increase in freight rates, the railways proposed to deliberately re-establish a substantial part of this differential by requesting a 20 per cent increase in freight rates other than competitive rates, the latter being restricted to a proposed 5 per cent increase." Well, were competitive rates to be set there by the Board, too?

MR. EVANS: No, sir.

THE CHAIRMAN: What does it mean there -- the word "restricted". That is what I can't understand --

what is "the competitive rates being restricted to a proposed 5 per cent increase"? Will you explain that?

MR. EVANS: Yes, sir. It is one of those things that is subject to misunderstanding. What happened is this; in July of 1948 the railways made an application for an increase of 20 per cent. They felt that despite the fact that these competitive rates were under review --

THE CHAIRMAN: Review by whom?

MR. EVANS: By the railways. They were going through these competitive rates ever since price control went away, but despite the fact that those rates were under review, they believed that on the whole competitive rates could also stand the 20 per cent. Now then, the railways wanted to get a 15 per cent interim increase in all rates, but being unable to get the interim increase set down they went ahead and increased the competitive rates which they were able to increase by 15 per cent and when the 20 per cent increase was coming on for hearing, they had to forecast revenue which would be available from the 20 per cent increase and they forecast it on the basis that competitive rates would also go up an additional amount equal to the difference between the 15 per cent they had already got and the 20 per cent which would be applied to all the rates.

THE CHAIRMAN: That makes the 5 per cent?

MR. EVANS: Yes.

THE CHAIRMAN: I understand it now.

THE WITNESS: But the point we are making in the brief here, sir, is that if that had been done, it would have re-established the old differential. That is the point.

THE CHAIRMAN: Yes, I understand that.

MR. EVANS: Of course, it would have only if

these other factors were not going on continuously in competitive rates such as in the transcontinental rates and other rates?

A. Oh, yes.

Q. Now then, on the question of regional profitability, Chapter X, page 10 and page 11, and the printed brief at pages 131, 132 and 133, now then, I do not want to take you on language there, but I want to just see whether you and I understand one another. Your view is that in the case of the western costs proving to be less or the western profitability proving to be more, whichever may be the result, that there should be a sort of a ceiling put on the western rates until the eastern rates have made themselves equally profitable?

A. Yes.

Q. I hope I have paraphrased you correctly?

A. Yes.

Q. Now then, have you considered how you would apply an increase or an estimation of the extent to which western traffic produces increased cost in railway operation in the east?

A. Well, that is your problem of cost accounting division, yes.

Q. And one of the things that was missing, was it not, from the so-called estimate of regional profitability to which your brief referred was that no attempt had been made to measure that?

A. Well, there was a cost accounting analysis there using various arbitraries as a method of allocating costs. Each one of those would need to be reviewed and studied.

Q. Generally speaking, have the costs incurred in each region been attributed to that region regardless?

A. Yes.

Q. Now, I am suggesting to you this, that the whole of the line from Fort William east to Sudbury is primarily adapted to the carriage of traffic originating in the west?

A. Yes, and I said yesterday we thought that line should probably be included in the west.

Q. Of course, that is one of the things your study of profitability does not include?

A. That is right.

Q. Isn't it also true that because of this large volume of traffic moving over east, the wheat traffic, for example, that the eastern terminals are far greater in extent than they would be for eastern traffic? That seems to be obvious?

A. I don't know.

Q. The port traffic -- say, Port McNicoll and all those bay ports including St. John and Halifax?

A. They are larger by the revenue that comes in to them too.

Q. So it is almost impossible on the kind of study you have put in your brief, to determine whether in fact one region is more profitable than the other?

A. Well, yes, it is impossible to define it exactly just the same as it is impossible at any cost accounting analysis to decide exactly, but still that does not stop cost accountants from estimating cost. You have to do it the best you can and get as close as possible.

Q. Now then, in your brief you do not take into account the result of checking Canadian Pacific and Canadian National rates from east to west?

A. No, there are no complete figures available on the same basis for the C.N.R., so far as I am aware, and you have mixed in with it always the question of the losses

on what we call lines built for purposes other than ordinary business reasons.

Q. But if there are losses you will find the losses occurring both east and west?

A. Yes.

Q. So I suggest to you that in the case before the Board of Transport Commissioners, the 21 per cent case, that at the same time this information was put in with regard to the Canadian Pacific Railway, exactly similar information for similar areas was put in for the Canadian National Railways?

A. Not exactly, was it?

Q. If you add those results together, both east and west, you get an entirely different result from what you show?

A. I don't think so very different. I am not too familiar with that aspect of it, but I am told that our people never added them together.

Q. I added them together in my argument. I think perhaps your people forgot that?

A. That may be so.

(Page 9045 follows)

Q. Now, I draw your attention to Chapter XI, page 2, page 136 of the printed brief. Under the heading of "Simplification of Rates and Tariffs" you speak about the rather pitiful plight of the small shipper?

A. Yes.

Q. Being at the mercy of these particular freight agents who pick rates out of the hat, and if he is lucky he gets a low one and if he is not lucky he gets a high one?

A. Yes; in colourful language that is about the situation, yes.

Q. Well, that is about the substance of what you have on that page?

A. Yes.

Q. Now, I suggest to you this: Perhaps you did not know this, that it is the duty not only of the agent at the originating point but the duty of the agent at the destination point, to check the rates; did you know that?

A. No.

Q. It is also the duty of the audit department to check the rate?

A. Yes, I would imagine that is true.

Q. And it is also the practice -- and I am asking you to see whether you agree, because these are my instructions -- it is the practice that when there is any mistake in a rate -- when I say a mistake in a rate, there is only one legal rate -- refunds are made automatically?

A. Yes, but in addition there are, as we point out here, a substantial number of people in Canada making quite a good living on the basis of auditing freight bills and taking a percentage of whatever savings they can find in

those freight bills. There is a very substantial number of people in Canada making quite a good living that way, simply on checking up freight bills, which indicates that there must

be a substantial number of bills of that kind getting through.

Q. But the fact remains that the public has a greater protection in the case of freight rates, there being only one legal rate, than a person has going into a store?

A. Oh, yes.

Q. Where he may find prices different in every store he goes into?

A. That is right, quite so.

Q. Now then, are not these questions as to the protection of the shipper, in the kind of case you mention, purely a matter for the Board of Transport Commissioners?

A. Oh, I think possibly, yes.

Q. And entirely within their power?

A. Yes, I think so.

Q. And have you made any such suggestions in the general inquiry into freight rates?

A. We have not made any suggestions in the general inquiry into freight rates.

Q. I suppose it would be daring of me to ask you why you did not make any representations?

A. No, I think the answer to that is fairly clear. There are certain changes in policy, certain changes in attitude, which we think should be reflected in the statute and in the set-up of the Board before they can do an adequate job. That is why we are here asking for some recommendations for changes in this kind of thing.

THE CHAIRMAN: Q. Do I understand, then, that what you are asking us to find and recommend is a simplification of rates?

A. A simplification of rates and a simplification of the methods by which the public hear about them and have them brought to their knowledge.

Q. I suppose you suggest something here?

A. Yes, we go on then to suggest several possibilities.

Q. But it amounts to that, a simplification in the setting out of the rates themselves, and then a better way of making them known to the public?

A. That is right. What we are asking is that your Commission should recommend that the Board of Transport Commissioners undertake that sort of job, and, as we pointed out in the earlier part of the brief, take more initiative on its own account and not wait so much for suggestions brought to it by interested parties.

MR EVANS: Of course, just to get it clear, our view is that there is nothing in the world to prevent my friend Mr. Moffat from making representations to the Board, because I am quite sure that everybody would be glad to have suggestions as to the simplification of tariffs. I do not need to burden your Commission with that. The Board will act on these suggestions.

THE CHAIRMAN: Q. Well, have you ever made your suggestions known to them?

A. No. Mr. Evans just asked me that, and he asked me the reason why, and I was explaining the reason why.

Q. Well, you did not explain it much. You said you did not think it would be much use, I think, in the last part of your explanation. Put yourself in this position: "Well, we can say we did make our representations to the Board, and we have had no satisfaction."

A. No, we have never done that. None of the provinces have done that.

MR EVANS: Q. Now if I may turn to page 11 of Chapter XI, we are talking there about the standard classification of accounts, and I have very little to say to you

about that. That is at page 143. of the printed brief. Would you agree that a classification of accounts for the railways of Canada should be the product of conference with the railway accounting officers and the Board and other interested parties?

A. Yes.

Q. It is important, is it not, that the railway accounting officers, who have the practical problems of everyday accounting to face, should be consulted, and it should be a matter for accountants?

A. Oh, yes, certainly, there is no question of that, although we are making another point in here quite strongly, that we are not suggesting that this system necessarily represents exactly the system that the railways follow. They can have a system of their own, whatever they think they need for operating purposes, but we are asking that this should at least be---

Q. I am talking about your brief. As a matter of practical importance, you should have the same accounting for all purposes, should you not?

A. Not necessarily; maybe in the main, but there would be certain---

Q. No matter what regulations are laid down, there have got to be interpretations?

A. That is correct, yes.

Q. And I suppose that the interpretations would be for the Board of Transport Commissioners?

A. Well, they would probably be arrived at by the same method as the regulations themselves.

Q. Conference?

A. Conference, with probably a formal regulation laid down by the Board of Transport Commissioners eventually.

Q. But there would have to be a ruling from time to

time?

A. Yes.

Q. You would not expect the interjection of the executive arm of government into that kind of thing?

A. No.

Q. Now, on page 13 -- on page 145 of the printed brief -- you have eight headings showing the contents of the annual report to be made to the Board by the railway. Just to summarize, isn't it true that, with the exception of items 3, 5 and 7 in your list, that information set forth there was available to the Board in these rate cases we have been talking about?

A. Eventually it became available to the Board -- I think in every case, because these are the issues that we found to be of sufficient importance to press for directions from the Board to make them available. That in itself means that the only illustrations we can give are the ones we discovered, but it suggests that there may be need for other things which we have not yet discovered.

Q. Well, it is always wise to be safe by having enough.

A. It is true that these figures all did eventually become available during the hearing.

Q. I do not want to discuss it in detail with you, but I just want to draw your attention to one or two things. Now then, in number 3 you suggest revealing operating revenues, operating expenses and investment, east and west?

A. Yes.

Q. I suppose then your study for your annual report would have to include these things that we have discussed earlier, the use of terminals east and the north Lake Superior run for western traffic -- all those things would have to be weighed in that study?

A. It would have to be taken into account, yes,

probably in the form of a fairly major study in the first instance, which we have requested that this Board lay down the general lines of.

Q. And then there would be an annual--

A. Bringing up to date.

Q.. An annual bringing of that up to date?

A. Yes.

Q. Now, when you come to 5, we run into a little more trouble there -- and I will read 5 for the benefit of the Commission:

"include the data necessary to a more detailed study of traffic statistics particularly with respect to the volume of traffic moving under the various types of rates."

That in substance requires a way bill study, doesn't it?

A. Yes, which is under way, although I have not been able to discover the details of just what is being done there, although I know there is a way bill study under way.

Q. Have you any idea of the amount of work involved in a way bill study?

A. I know it is substantial, yes.

Q. In the case of the way bill study for the annual report, that would have to be a substantial repetition year by year, would it?

A. Yes, on some sort of sampling basis, maybe.

Q. A sampling basis could never be true sampling unless it had at least the four days the Board is now using?

A. Well, I would not want to say it should be on the basis of four days, but it would have to be about that proportion of the total traffic, yes.

Q. Now, I suggest to you that the four days that the Board began a year ago last summer -- despite the fact that there is a staff of the Board and a staff of the railways

working on that, that four days sampling has not yet been completed?

A. Yes, I know that; I am aware of that.

Q. Now I ask you this: How could you have that as an annual report to the Board without a very great deal of expense and trouble and unnecessary work -- a way bill study in the course of every year of the calendar?

A. I am not familiar with the exact amount of work that is involved there. I know that it is a substantial amount of work that is involved. On the other hand, I am familiar with a good deal of statistical tabulation that is done in Ottawa here by the various Government departments, and I know that statistical problems of this size are not major studies as far as Ottawa is concerned. The D.B.S. takes on, I would judge, a dozen or more studies as big as this in a year.

Q. What staff has the D.B.S.?

A. Oh, they have a big staff, yes.

Q. It is a matter of expensive staff?

A. That is right, and it would have to be judged according to the amount of expense, the frequency with which it would have to be done. That would all have to be taken into account to reach a decision, but I think it is fundamental that we have something available to us to tell us how much traffic is moving at class rates, how much traffic is moving at competitive rates, how much traffic is moving on international and related rates, because the Board itself in its judgment in one or two places said, "We cannot give effect to this or that submission because we do not know how much money is involved."

Q. Now, is Manitoba prepared to have rates increased to whatever extent these additional costs may entail?

A. Yes, because we think that the amount of the

additional cost on a thing of this sort in relation to the total freight bill of Canada, which is somewhere in the neighbourhood of \$800 million a year -- it would have to be an awfully big study to be any significant part of that.

Q. What about the inventory of road property, which is your item 7? Isn't that also a colossal task?

A. I would not think it would be terribly big, if it was maintained year by year. It would be a big job to make it in the first instance, yes.

Q. And there again, Manitoba would be willing that its rates be raised by whatever was necessary to pay the additional cost of the accounting and clerical work involved?

A. I am told that it is practically available now in Exhibit 49-49, after a good deal of controversy has gone on. It is now available. It is a matter of keeping it up to date from here on. It is already prepared.

Q. Thank you, Mr. Moffat.

MR COVERT: Mr. Chairman, I have arranged with Mr. O'Donnell and Mr. Moffat to forego examination now, and let Mr. Moffat step down until Monday, to give us an opportunity to go ahead with the rest of the agenda.

The next submission is that of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, American Federation of Labor.

A. F. MacARTHUR, called.

EXAMINED BY MR COVERT:

Q. Mr. MacArthur, will you tell us your position with the International Brotherhood of Teamsters?

A. I am International Representative for Canada.

Q. Now would you go ahead and read, please?
(Page 9055 follows)

THE WITNESS: Gentlemen, may I express at the onset our deep appreciation of the opportunity of being permitted to appear before this Commission and to present for your consideration the views of the employees engaged in truck transport operation as represented by the International Brotherhood of Teamsters.

It should be pointed out that this organization is not too familiar with the terms of reference given to this Commission. It was our impression that the primary purpose of the Commission was to investigate into freight rates and financial structures in rail transportation. It was, indeed, much to our surprise and concern and through the medium of the Daily Press, that it was drawn to our attention of certain representations being made by Labour Unions particularly interested in railroad employees and in such representations, recommendations of such radical nature that we did, immediately file with the Board a request for the privilege of stating labour's position as reflected by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.

Little time has been given for the opportunity of preparing a comprehensive brief, purely a matter of days, therefore we ask the indulgence of this Commission in the content and rather hurried preparation of same.

The International Brotherhood of Teamsters is an affiliate of the American Federation of Labour; indeed is the largest affiliate of such body, having in membership upwards of 1,100,000 members, such membership being contained in 1,000 local unions throughout Canada, United States, Alaska, Canal Zone, Territory of Hawaii, and having very broad jurisdiction over almost all modes and

types of truck transportation including city pick-up and delivery and over-the-road or line drivers, milk transport dairy employees, bread transport, bread salesmen, coal and ice drivers, newspaper and periodical drivers, taxicab drivers, bus drivers, dump-truck drivers, building material and construction drivers, horse and ambulance drivers and warehousemen, etc. There are, roughly, 32 different branches of our craft in such jurisdiction for the purpose of organization, as granted by the American Federation of Labour.

It is the aim and object of the International Brotherhood of Teamsters to organize under one banner all workmen engaged in the driving craft and to educate them to co-operate in every movement which tends to benefit the organization; to impress upon our membership, our employers and the public, that it is to the advantage of all concerned that workers be organized. The organization of our craft requires honest and intelligent membership adapted to the business. We teach our membership the advantage, benefits, and importance of their industrial position and we endeavour to build up a labour organization in conformity with the highest standards of our Canadian citizenship. We seek to improve the industry by increasing the efficiency of the service and by instilling confidence, goodwill and understanding between our membership and their employers which will have the effect of preventing serious misunderstandings between the membership and their employers, and which will further co-operation and fair dealing with all employers so as to secure for our membership reasonable hours, fair wages and improved working conditions.

In Canada the International Brotherhood of Teamsters speaks for Local Unions -- 28 in number -- and located in the principal cities of all Provinces with the exception of Prince Edward Island and New Brunswick.

<u>PROVINCE</u>	<u>CITY</u>	<u>LOCAL</u>
Newfoundland	St. John's	1
Nova Scotia	Halifax	1
Quebec	Montreal	2
Ontario	Toronto	4
	Windsor	1
	Hamilton	1
	Ft. William	2
	Sarnia	1
Manitoba	Winnipeg	3
Saskatchewan	Moose Jaw	2
	Saskatoon	1
Alberta	Calgary	3
	Edmonton	1
British Columbia	Vancouver	5

I would also draw to the attention of The Honourable Members that the jurisdiction granted to these aforementioned Local Unions extends, in many cases, considerably beyond the confines of the City or Town they may be located in, for example: the General Truck Drivers Local of the City of Toronto takes into membership truck drivers located in 34 centres within the Province of Ontario: the same may also be said for the Transport Drivers Local Union of Montreal and also that of Vancouver.

In Canada the Local Unions of the International Brotherhood of Teamsters are affiliated with the Trades and Labour Congress of Canada.--indeed the International Brotherhood of Teamsters are the fifth largest affiliated Union of the Trades and Labour Congress of Canada -- in fact exceeding in size from the point of view of per capita tax paid all affiliated railroad unions with the exception of the Brotherhood of Railway Carmen of America.

This organization has had, over a number of years,

contractual relations with the individual employer and employer groups on behalf of its membership engaged in automotive transport, short and long haul, from one end of Canada to the other, and it can be truthfully said represents in collective bargaining a considerable number of the employees engaged in the truck transport industry.

HISTORY AND GROWTH

With the growth and development of Canada as a Nation, such growth being accelerated this last decade and her emergence more and more from an agricultural economy to an industrial economy, the bright stem of that growth can very well be considered transportation in all its forms.

The evolution of transportation is indeed an interesting one: the changing from the ox cart and the prairie schooner to rail transportation did much to open up vast new territories in Canada. The railroads are woven into the very fabric of our economy, but as that economy has become more and more complex with its technological advancements cannot the internal combustion engine of yesterday, the plane of today and the possible industrial use of atomic energy tomorrow, be considered as steps in our ever-expanding economy?

It may safely be said that World War Number One lent added impetus and proved the necessity of truck operation. In the twenties began the growth of the highway trucking industry in Canada.

This youthful industry has grown in the course of less than one-third of a century to a position of great economic importance. The use of motor driven vehicles in the commercial field had its beginning in the local cartage; the intercity field of motor trucking entered upon a period of rapid expansion following the First World War.

Canadian truck production records show that the

number of trucks produced in 1921 - 5,148; 1931 - 17,487; 1942 - 216,057; 1948 - 96,941. It is assumed the drop in production from '42 to that of '48 was caused by emergence from a wartime economy to peacetime economy with its necessary retooling and shortage of basic materials.

In 1947 there were a total of 428,000 commercial truck and bus registrations in Canada, over 50% being in Quebec and Ontario. In the gas tax and license fees accruing from that number of trucks comes approximately 40% of the provincial tax revenue, while such vehicles are the minority portion of the total motor vehicles registered. In that regard it should be pointed out that the recent federal wartime gas tax of 3¢ was recently added to the provincial tax when the Federal Government did relinquish this taxation field.

In the 5-year period of 1939-43, the revenue from direct taxation on motor vehicles in the line of gas tax and license fees exceeded the cost of maintenance and construction of our highways in Canada by \$92,000,000. In Ontario, for example, the revenue over that 5-year period exceeded expenditure by \$32,000,000 with the contemplated expansion of our streets and highways by the various municipalities and the provinces to take care of the ever-increasing use of motor vehicles, both commercial and otherwise, it is safe to assume that the various Provincial Government shall surely make it their point by direct taxation to secure the necessary funds for such expansion.

With the ever-increasing use of the truck and automobile, both in the private and commercial sphere, and the direct taxes imposed in the way of gasoline tax and license fee, and with the revenue accruing, the provinces of this Dominion have plowed it back in the expansion

of our highways and byways. The tote road of yesterday is far removed from the express double lane highways of today and the major contribution to the cost of maintaining and building our roads has been made by the commercial vehicle. Despite those interests that would endeavour to deny this statement, particularly in our industrial provinces of Ontario and Quebec, does this apply.

The portion of the revenue dollar earned in the trucking industry finding its way back to labour is considerable. We believe that one out of every 10 gainfully employed persons in Canada is dependent upon automotive transportation for a livelihood, be it in the production of motor parts, truck accessories, rubber included -- the sales and service of such trucks, the petroleum refining and in the maintenance and improvement of our existing Federal, Provincial and county roads, and last but not least the actual employee of the trucking industry itself.

It can be shown that the motor carrier revenue dollar is distributed as follows:

Equipment, Maintenance and garage expense -	12.4
Transportation expense	35.7
Terminal expense	19.9
Sales and advertising expense	2.2
Insurance and safety expense	5.5
Administrative and general expense	7.8
Depreciation expense	3.8
Operating, taxes and license	5.3
Operating rents, net	2.3
with 5¢ of the revenue dollars or less being net revenue.	

Wages, undoubtedly, are a considerable portion of such dollar. It is our estimate, close to 50¢ per dollar revenue.

It may be said that wages in the industry previous

to World War Two could be considered low and depressed but with the advent of collective bargaining, particularly in Ontario and Quebec, there has been considerable improvement, until today it may be said that the average wage in the trucking industry, particularly where agreements are in force and effect are more than the average wages in the various localities. This cannot be interpreted that the ultimate in wages or working conditions has been reached. It will be the endeavour of this organization to work unceasingly for a greater return for labour invested. Also, through collective bargaining has come regulation in regard to hours worked and other labour conditions. Such matters also being regulated by Provincial Legislation in the form of public Commercial Vehicle Acts and in the case of Ontario and Quebec Hours of Work Acts.

Undoubtedly it will be proposed to this commission that there should be some curtailment in the length of hauls by the commercial truck operator particularly where such hauls are in competition with other forms of transportation, be it railroad or steamship. Again, the angle of competition is involved. It has been our experience in the trucking industry that those companies engaged in the movement of L.C.L. and other freight, between the wider points are in a much more stable position financially than the smaller operator, thereby being in a sounder financial position and able to give more in wages and in working conditions. For example: This company's operations between Toronto and Montreal and between Toronto and Windsor and ^{border} points are amongst the largest that we are presently doing business with, having upwards of many hundred of employees. It would appear reasonable to assume that they must find these long-haul operations profitable as they constitute the majority portion of their business and to

the best of our knowledge are very definitely not operating at a financial loss.

Our highway drivers usually drive by night where, therefore, goods shipped in one city tonight can be delivered on the consumer's doorstep miles away the next morning. It can be said that this service costs less and is faster than rail, which is precisely what the shipper and customer desire.

If this is unfair competition, then the trucking industry is guilty, we respectfully suggest, of providing the service demanded by the general public by way of choice rather than compulsion.

This Union is not prepared to argue the merits or demerits of centralization of authority in Ottawa or in the relinquishing of provincial rights and jurisdiction. It does, however, seem peculiar to us that many employees, in a sense, of our Federal Government should advocate such a move. Surely this Commission knows that the portion of commercial trucking carried on an interprovincial basis is minute: the vast portion being of an intraprovincial nature. We believe that there is ample scope within the jurisdiction of each province for regulatory measures, be it that of rates, highway restrictions, financial responsibilities, conditions of labour or other limitations. In fact we subscribe to the theory of such regulations by the respective provinces and the necessary policing of same for the purpose of protecting, first of all, the consumer, the manufacturer, and the truck operator from unfair competition within the industry.

There have been in the past, both on a provincial and federal level, previous Boards and Commissions established for the purpose of examining into transportation as it effects the common interest, both on a provincial and national level, and many of those Board's recommendations

have been implemented by way of legislation and regulation.

It has been suggested to this Commission that consideration be given to the desirability of constituting a Board, Committee or Commission for the purpose of carrying on a continuous study of the ever-changing transportation problem, such Board to be constituted by the Federal Government. Again, it is the opinion of this Union that with our Federal Government being in what might be termed "the railroad Business" that this might tend to show bias in favour of the railroads, thereby prejudicing the trucking industry in which many thousands of our Members are dependent upon for a livelihood. As a Union we have no objection; in fact many times have favoured as being necessary, and also have advocated Boards and Commissions, particularly where workers' interests were involved, for the purpose of investigating and protecting such interests, but we feel any such Board or Commissions, should be at its proper level and in truck transport this level would appear to us to be that of the respective provinces.

The same may be said of any suggestion given to this Board of any federal control by a federal transport commission whereby the trucking in any and all of its forms would be required to stifle their efforts in providing the necessary and essential service required by the shipping public today or to operate under any conditions that the railroads, in their limited field of operation, might be compelled to do. The trucking industry has grown to where it is today and can and will in our opinion continue to grow, and will be the healthier for it, as an industry, if free and unfettered from Federal regulations.

It would appear on the part of the railroad and of the Railroad Brotherhoods that the railroad industry is groaning under certain restrictions that the trucking

industry is not faced with and that they would have the trucking industry so bound. Further, to the best of our knowledge no for-hire trucking company, at any time, has received direct or indirect subsidies, grants of land, cash loans, or had its operation underwritten by any Government either of a Provincial or Federal nature.

It is respectfully submitted that any industry or utility being prepared to accept public moneys for the purpose of underwriting financial loss, then, is of necessity compelled to submit to regulations that may be applied by the party providing such financial underwriting, be it government or otherwise. Also, that they should not be too critical of any other industry, competitive or otherwise, that is standing on its own feet financially and which, if unable to compete within the transportation industry, then must of necessity close its doors or be absorbed.

It is our understanding that, in regard to financial responsibility, many, if not all, of the Provinces do have such protective regulations insuring the payment of any claims for damages that may be legally assessed. In Ontario for example, under The Public Commercial Vehicle Act, every person licensed shall provide and carry insurance or bond, certificate of which must be filed with the Minister of Highways.

The naive recommendation of certain interests that no bus or truck be operated on any of our highways where adequate transportation facilities exist or where the railways can and are willing to provide these facilities, seems to us to be hardly worthwhile commenting upon. If this country of ours had subscribed to a theory of that nature would we not find ourselves still in the horse and buggy days. Can our economic progress as a nation be stunted by such fallacious reasoning? By what right,

divine or otherwise, can the railroad presume to have a monopoly of the free flow of commerce between our towns and cities. By following reasoning of this nature to its logical conclusion, we would not have been developed as a nation. This, in fact, can be considered very similar to charges that have been made against Labour Unions attempting to stunt and mullify economic progress, and which is commonly referred to as "feather-bedding."

This Union has always advocated and will continue to advocate in the interest of public safety, regulations of a provincial nature, compelling all truck drivers and operators of motor vehicles to qualify by way of examination for operators' license. In this regard we are presently making representations to provincial bodies for more stringent qualifications in regard to over-the-road drivers.

Character of the occupational duties and the habits and traditions of the truck drivers have changed in the course of the rapid development of the industry. The relatively limited training and skill necessary for qualification as a driver at first attracted men from many other occupations. The trials and troubles of the trucking industry in the earlier stages of its development produced a large labour turnover and prevented until comparatively recently, and with the advent of collective bargaining in the industry, the formation of anything like a homogeneous occupational group.

The United States Interstate Commerce Commission on April 25, 1938, requested the United States Public Health Service to undertake an investigation into the problem of fatigue and hours of service of drivers of commercial vehicles operating in interstate commerce. As a result Public Health Bulletin No. 265 entitled, "Fatigue and Hours of Service of Interstate Truck Drivers", was published in

1941 and is available for public distribution at the United States Government Printing Office. From this Government survey we quote the following from page 9:-

"In summary it may be said that the work of the over-the-road truck driver is becoming like that of the railroad engineer -- a skilled occupation. Often he is not aware of the exact nature of his cargo, and its collection, and disposition is of little concern to him. His work is essentially to forward freight safely and on time from terminal to terminal. His duties involve knowledge of the road and of his vehicle, and skill at manipulating his equipment rapidly and safely under every condition of weather and traffic. The major part of his driving is done at night and his task is monotonous and involves exposure to accident. A high premium is placed upon alertness of attention, speed of reaction, and the psychophysiological qualities which determine sound judgment in the constantly changing conditions of highway traffic."

By the legislation and collective bargaining, restrictions have been placed in the number of hours over-the-road truck drivers may remain on duty in the operation of their vehicle. Also by regulation has the tonnage and size of commercial vehicles been fixed by competent authorities of the respective provinces. In regard to conditions of work and hours of labour, we file with this Board a copy of an agreement existing covering some thousands of trucking employees in the Province of Ontario.

More and more today are the Canadian public demanding service and they are prepared to pay for this service. In the final analysis are they not the judge in what form

this service shall be. The person selling the cheapest and giving quantity and quality is the person that will be patronized. The old adage of building a better mouse-trap than your neighbour holds truer today than ever before. John Public is calling the shot and is paying the shot. The customer is entitled to the spending of his money despite those people who would endeavour to regulate such spending. In other words, competition is the life of trade.

With the advent of the trucking industry and the rapid service it was ready and willing to give, this new type of transportation did demonstrate to the public a desire to serve fast and economically and the faith of the public has been demonstrated by the growth of the trucking industry as the clamour for its services continue to grow apace. Trucks originated door to door delivery. Goods leaving the shipping doors in one terminal could arrive at their destination in a matter of a few hours, depending upon distance, in a more economical form of transportation.

Industrial plants and all forms of businesses previously compelled to carry large inventories of goods found that with speedy delivery came considerable reduction in such inventories and with it less capital risk and more efficiency.

The producer of today in an effort to get his product to the consumer first and fast, is given a choice of various modes of transportation and where he shows a preference because of service rendered, is he not entitled to so do?

Service is the key-note of the transportation industry, be it railroad or otherwise. This, must be appreciated.

It is submitted Mr. Chairman, and gentlemen, that the trucking industry is presently performing a vital service to all our communities and should be permitted to continue to do. That there is no necessity for federal control of any nature, particularly when our highways come within provincial jurisdiction and while, for the present, there are no transprovincial or transcontinental federal-controlled highways with the possible exception of the Trans-Canada Highway, which is still in its formative stages or the Alcan Highway, which was purely a wartime development.

The trucking industry to many thousands of employees plays a great part in our peacetime economy and while it is not our purpose to sound of an alarmist nature, it may be said that in wartime economy and in National Defence has already proven and will continue to prove essential. Amongst the first blows of the enemy will be the attempt to cripple transportation; railroads and canals are particularly vulnerable in that regard. Highways and the trucks that roll on these highways will have AAA1 priority.

In conclusion it is respectfully submitted that the future of this Dominion and its many provinces lies in the untrammelled development and utmost use of all forms of transportation with a further expansion of our network of highways in the part that they will play in our growth as an industrial giant and of the taking of our proper place amongst those democratic nations of today. All of which is respectfully submitted:-

ON BEHALF OF THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, CHAUFFEURS,
WAREHOUSEMEN AND HELPERS

the following information is being furnished to you:

1. The name of the person or persons who furnished the information.

2. The date when the information was furnished to you.

3. The name of the person or persons to whom the information was furnished.

4. The name of the person or persons who received the information.

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29. The name of the person or persons who furnished the information.

30. The name of the person or persons who received the information.

MR COVERT: Q. Mr. MacArthur, there are a few questions I want to ask you just to clarify a few points in your brief, and if at any point you feel that you cannot answer them I would like you to say so.

A. Yes; all right, sir.

Q. It is just to clarify it that I want to put these questions. First, on page 2 of your brief, in the second paragraph, you intimate that the total membership of your brotherhood is in excess of one million members, and one thousand locals -- that is, one thousand local unions -- in Canada, the United States, Mexico, and so on. On page 3 you indicate that there are twenty-eight local unions in Canada. I was wondering if you could indicate approximately how many members there are in your unions in Canada?

A. That, Mr. Chairman and gentlemen, fluctuates from month to month, but according to---

Q. Just approximately?

A. Last year our figures were approximately 20,000 members throughout the Dominion.

Q. Then on page 4, in the first and second paragraphs, -- in the first paragraph you say that you are the fifth largest affiliated Union of the Trades and Labour Congress, and in the second paragraph you say that it can be truthfully said that your organization represents in collective bargaining a considerable number of the employees engaged in the transport industry. Now, I wonder if you could indicate just how many would be in the transport industry?

A. I would estimate, sir, about five to six thousand.

COMMISSIONER INNIS: Did you say transport industry, Mr. Covert, or truck transport industry?

MR COVERT: Truck transport.

THE WITNESS: That is, over the road.

MR COVERT: Over the road, yes.

THE CHAIRMAN: Are the words "engaged in the truck transport industry"?

MR COVERT: Yes, "the truck transport industry".

THE CHAIRMAN: What is the answer to that?

MR COVERT: Q. About five or six thousand, I understand?

A. That is correct, sir.

Q. Then in the same second paragraph on page 4 you refer to the automotive transport short and long haul. Now, I just wondered if you had any special meaning so far as distance is concerned with respect to that phrase. What would you regard as a short haul and what a long haul?

A. Well, there is no arbitrary figure there. I would say, sir, that we would regard anything under 100 miles as a short haul.

Q. Anything under 100 miles is short haul?

A. Yes.

Q. And anything over that is a long haul; is that right?

A. Yes.

Q. Now, I just wanted to find out for the purpose of really limiting the questioning: Do you hold yourself out as an expert on that matter at all, or have you made a study of it yourself, as to whether anything over 100 miles is a long haul?

A. No, I have made no study of it.

Q. You are not really prepared to deal with that?

A. No, I am not, sir.

Q. All right. Then would you turn to page 5, Mr. MacArthur. In the third paragraph you deal with certain figures of what you call Canadian truck production. There is a tremendous jump, of course, in 1942, and then in 1948

it is down to 96,941. Now, you seem to suggest there that that is due to the emergence from a wartime economy to peacetime with its necessary retooling and shortage of basic materials. What I wanted to suggest to you was that the large figure in 1942, I think, as a matter of fact, was exceeded, was it not, in later years, 1943 and 1944? Is that correct, do you know?

A. I could not say, sir. I believe the source of the figures is the Dominion Bureau of Statistics.

Q. I just wanted to suggest to you that it might have been, rather ^{than} simply because of shortage of material and retooling, really that those things were used for war purposes, and that demand would cease immediately the war was over?

A. No; in that regard---

Q. Does it not include---

A. It excludes vehicles for war production, war material.

Q. Vehicles for war use?

Q. It excludes them.

Q. I did not mean such things as tank carriers and so on; I meant trucks that would be used for army purposes; these figures you say exclude all those?

A. That is my understanding; it does exclude all trucks and vehicles for army production.

Q. And you say you got this information, these figures were compiled from the Dominion Bureau of Statistics figures?

A. I believe that is correct, sir.

COMMISSIONER INNIS: Q. You have no way of showing the capacity of those trucks?

A. No, I have not, Mr. Commissioner.

1 MR COVERT: Q. Now, Mr. MacArthur, on the same

page 5, at the bottom, I just wanted to know the source of the figures which you give there -- that is, covering the excess of revenue from gas tax and licence fees over the cost of maintenance and construction of highways. Would you just tell us the source of those figures?

A. I believe the source there, sir, is the Canadian Automobile Chamber of Commerce.

Q. Then on page 6, Mr. MacArthur, in the first complete paragraph, you say that the major contribution to the cost of maintaining and building roads has been made by the commercial vehicle, and you say this applies particularly in the Province of Ontario, and again I wanted to know if you could tell us where you obtained the authority or the source of that statement?

A. I believe that is the Department of Highways of the Province of Ontario.

Q. And what about where you suggest Quebec as well?

A. In regard to Quebec, sir, I could not say.

Q. In the second paragraph on page 6 you say:

" . . . one out of every 10 gainfully employed persons in Canada is dependent upon automotive transportation for a livelihood".

I just wanted to know what the source of that information was?

A. I believe, sir, that these were figures of the Interstate Commerce Commission of the United States, and on a population basis we endeavoured to arrive at the same figure here.

Q. In other words, you say what you did was, you say that is approximately the proportion in the United States, and you say that is probably the proportion here?

A. That is quite true.

Q. What you say is, you could not say that that is

so; you just say---

A. We are assuming that.

Q. That is a guess that you made?

A. Yes, it is an estimate.

Q. And probably a good one. Now, I would like also to ask you about what you say at the bottom of page 6 and the top of page 7, where you give how the revenue dollar is distributed. I want to know if you can tell me how that calculation was made, and under what authority?

A. That again, sir, as I understand it, comes from the Interstate Commerce Commission of the United States.

Q. And you suggest that the same figures would apply in Canada?

A. Would be comparative here.

Q. And would the same apply at the top of page 7, where you say that wages undoubtedly are a considerable portion of such dollar, and, it is your estimate, close to fifty cents per dollar revenue -- that is, using the wages? Is that correct?

A. Yes, sir. Again that is from figures of the Interstate Commerce Commission, which show that the wage portion of the revenue dollar in the United States is slightly over fifty cents, and we say that this in Canada would be close to fifty cents.

Q. Would be close to that?

A. Yes.

Q. I just wanted to know if you had made any particular study of it yourself, Mr. MacArthur, to see whether or not there were comparable conditions at all?

A. Not too detailed a study, sir. Figures are very hard to come by in this industry.

Q. Then on page 7, in the last paragraph, again you suggest that there probably will be proposals to this Com-

mission that there should be some curtailment in the length of hauls by the commercial truck operator. I was wondering, as a matter of interest, if your Brotherhood feels that there is any limit at all to the economic length of haul for trucks, but I suppose you are really not in a position to answer that?

A. No, I could not answer that, sir.

Q. Then in the same paragraph, at the bottom of the page, three lines from the bottom, you say:

"This company's operations between Toronto and Montreal . . ."

I was wondering if that was an error?

A. Yes, it is a typographical error.

Q. You probably mean, I expect, when you say "for example", there is some company that you have in mind, but you are not suggesting the name of it here?

A. No; that is correct, sir. We are suggesting several -- those companies operating.

Q. Now, as to the haul to which you refer there, on the next page you say:

"It would appear reasonable to assume that they must find these long-haul operations profitable. . ."
That is, from Toronto to Montreal, and between Toronto and Windsor. Now, what is approximately the length of those hauls, do you know?

A. Toronto to Windsor would be approximately 240 or 250 miles, and Toronto to Montreal would be around 350 or 360 miles, I believe.

Q. I do not suppose there is any point in dealing with this more specifically. You have, I suppose, no personal knowledge as to whether or not their operations are profitable, as to whether or not there were other parts of their operations that might be profitable, or

might be taken in conjunction with something else. All I am trying to find out, Mr. MacArthur, is whether there is any point in going further than asking you this: Is it any more than an assumption which you are making in the brief? You see, in effect you say, "Here, they are carrying on business, and we assume that they must make these"---

A. Yes, it is an assumption. A substantial portion of the companies' business that we have in mind is the long haul between Toronto and Montreal and Toronto and Windsor.

Q. And you simply say here they are carrying on business, and presumably they must be making a profit?

A. That is correct, sir.

Q. Now, in the next paragraph on page 8 you say: "It can be said that this service costs less and is faster than rail, which is precisely what the shipper and customer desire."

I suppose if you went into that carefully you might be asked, when you say "this service", does that mean service between any points?

A. Not necessarily any point.

Q. Because when you say "this service", that is, the trucker shipping goods in one city tonight and the goods being delivered on the customer's doorstep miles away the next morning, to say that this service costs less and is faster than rail -- that would depend on the two points?

A. Yes, sir.

Q. When you say "costs less", you mean to the shipper, do you? He pays less for the service?

A. That is correct, yes.

Q. Well, is that usually true? Do you say that the man pays less to the truck than to the train? I do not want to take you out of your field if you do not feel

qualified to answer.

A. I really am not too familiar with the actual rates in the industry, but it---

Q. All I am suggesting is that there may be cases where perhaps it costs more to have it done by truck; that is, the shipper pays more, but he is willing to pay it because perhaps he is provided a quicker service or perhaps a service that the railway cannot provide?

A. Yes, that might very well be.

Q. Then in the last paragraph on page 8, Mr. MacArthur, you suggest that the portion of commercial trucking carried on an interprovincial basis is minute, and you say "the vast portion being of an intraprovincial nature." I was just wondering if your Brotherhood did have any figures on that?

A. No.

Q. As to the amount of that?

A. No, we have not.

Q. Then in the very last sentence on page 8, Mr. MacArthur, you say:

"In fact we subscribe to the theory of such regulations . . ."

Now, such regulations, I gather from the above part of the same paragraph, include regulations of rates and so on. You say your Brotherhood subscribes to the theory of such regulations by the respective provinces and the necessary policing of same for the purpose of protecting, first of all, the consumer, the manufacturer and the truck operator from unfair competition within the industry. In other words, you say that you approve of provincial regulation of the trucking industry as compared with federal regulation?

A. That is correct, sir.

(Page 9077 follows)

Q. In the second paragraph on page 9, you rather suggest, it seems to me, that because the Federal Government is in the railway business, that if there was a federal tribunal appointed that perhaps they would show a bias, that tribunal would show a bias in favour of the railway. That is what you suggest?

A. That is correct, sir.

Q. I wonder perhaps if you were here when Mr. Moffat was on the stand and they discussed the question of the government overruling the Board of Transport Commissioners and of dictating the policy. I was wondering if that was what you had in mind? I just wanted to find out that you had in mind that simply because the government appointed a Board and because the government was in the railroad business, that that Board would have a bias towards the railroad?

A. That again, is purely assumption on our part. It is not without the realm of reason that they would be possibly sympathetic towards rail.

Q. I suppose you would say that would be possible, perhaps. I was wondering if you were suggesting that they were brought into the Board of Transport Commissioners who have been regulating the railways for some time. I just wanted to find out what you have in mind? It seems to me to be a suggestion that there cannot be an impartial board because the Federal Government is in the railroad business.

A. That is what we would be afraid of, sir.

Q. Now, in the same paragraph, that is the middle paragraph of page 9, you say:

"We feel any such Board or Commissions, should be at its proper level and in truck transport this

level would appear to us to be that of the respective provinces."

And then in the next paragraph, in the final sentence:

"The trucking industry has grown to where it is today and can and will in our opinion continue to grow, and will be the healthier for it, as an industry, if free and unfettered from federal regulations."

I just wanted to find out why under federal regulations you suggest the trucking industry cannot go so well as under provincial regulations because I understand you do approve of provincial regulations?

A. In the United States they have what is known as the Interstate Commerce Commission, a truck division of it, I believe, and of course this might again be a bias on this point, but it is our definite understanding that the experience of labour and also of the trucking industry under federal regulations in the United States has not been too healthy a one. In fact, I have often heard the word "chaotic" used.

Q. In any event, your Brotherhood believes that provincial regulation is better?

A. That is correct, sir.

Q. Do you believe, Mr. MacArthur, that there should be uniformity in regulations between the provinces? I was wondering if your Brotherhood had thought that matter out?

A. We have not given too much thought to that. I suppose that some degree of uniformity would be desirable. You would have to have regard for existing physical conditions, of roads and so forth and things of that nature.

Q. Now, Mr. MacArthur, I would take you to

page 10. Now, in the first paragraph you suggest that to the best of your knowledge no for-hire trucking company has received any direct or indirect subsidy, grant of land, cash loan and so on, and it has not been underwritten by any government, either of a federal or provincial nature. What I believe you are suggesting is that that is not so in the case of the railways?

A. That is so, sir.

Q. Then you go on to say in paragraph 19, that since the railroads have been subsidized, they must of necessity be compelled to submit to regulation?

A. That is correct, sir.

Q. Now then, you go on to say that they should not be too critical of any other industry, competitive or otherwise, that is standing on its own feet financially. Now, do you suggest that so long as a company does stand on its own feet financially, that it should not be regulated? Is that a test that your Brotherhood would apply?

A. No, not necessarily so.

Q. In other words, whether or not they were standing on their own feet financially, it might still be proper to regulate them as a public utility, I suppose?

A. That is correct, sir.

Q. I do not suppose you would say that because they had been subsidized that this would be the real reason that the railways should be regulated? There is perhaps a stronger reason than that, isn't there? In other words, the fact that it is a public carrier might be sufficient alone to make it

necessary to have them regulated?

A. Yes, the public necessity.

Q. I think probably you have heard the argument that truckers are subsidized by the building of highways?

A. Yes.

Q. I don't suppose you have made any studies as to that?

A. Not too detailed a study.

Q. And your point on that, I take it, is simply that/^{of}the statistics you quoted earlier as to showing amounts they paid towards maintenance and so on of the railways by virtue of the gasoline tax and licences?

A. That is correct, sir.

Q. That is as far as you know about it?

A. That is right.

Q. Now what do you think of a situation, Mr. MacArthur, where you do have railways as public carriers regulated and then you have in competition with them trucks which are not regulated? What do you think of that? Do you think that is fair?

A. No, I don't think it fair.

MR. HUME: Mr. Chairman, if I might interrupt, I don't want to interrupt my friend Mr. Covert, but he is putting a purely hypothetical question to him, because trucks are regulated.

MR. COVERT: I am coming to that, Mr. Hume. I wanted to ask about this. That is why you say your Union is in favour of provincial regulation?

A. That is correct, sir.

Q. Then do you think that that regulation should be on a basis comparable to that of the railways? Is that what your Brotherhood suggests?

A. Well, just what the measure stick might be, I can't begin to say.

Q. For instance, it has been suggested that they pick and choose freight, whereas the railways must take anything that is offered to them. Do you think that is a fair situation to exist, if it does exist?

A. To the best of my knowledge, there is little picking and choosing of freight. As I know the truck operators, it is very competitive from that angle of looking for business, looking for freight.

Q. And what you are saying is that there is very little picking and choosing, that there is lots of competition and they just take everything that is offered to them?

A. Yes.

Q. I put it to you as a hypothetical question, if you will, if that were so, do you think that that is fair? Do you think they should be asked within reasonable limits, on what they can handle, they should be compelled to take anything that is offered?

A. Within their physical bounds I should say they should take what is offered.

Q. In other words, what you say is that your brotherhood feels that since they are in competition with the railways that they should be regulated on a fairly even basis?

A. Yes, sir.

Q. I just wondered if you would like to amplify that phrase at the end of the first paragraph on page 11, the phrase, "feather bedding"?

A. Well, there have been unions accused of resisting, shall we say, economic progress, economic change. Whether they were accused rightly or not, I am

not prepared to say -- bricklayers, for instance, in regard to the laying of bricks, the running trades in regard to the number of crew required in a train -- examples of that nature.

Q. That is what you are suggesting? Are you suggesting that there is "feather bedding" among the railway employees?

A. No, I am not prepared to say that.

Q. And you certainly would not be suggesting that there is any in your own union?

A. No.

Q. Now I think just two more questions, Mr. MacArthur. On page 12, in the paragraph before the last, you say that you are filing with this Commission a copy of an agreement existing covering some thousands of trucking employees in the Province of Ontario. Have you filed this with the Secretary?

A. Not as yet.

Q. The Secretary requires, in filing an exhibit, five copies. Perhaps if you have not them with you now you could arrange to have them filed later?

A. Yes, that can be done.

Q. That will be Exhibit 120. You have a copy with you now?

MR. MILLS: If it meets with the Chairman's pleasure, we will have them forwarded.

---EXHIBIT NO. 120: filed by: Sample of
Mr. Covert: agreement -
between unnamed
parties and
General Truck
Drivers Union.

MR. COVERT: That is a sample copy of an agreement between the General Truck Drivers Union,

a local number, and there is no other party named, because it is just a sample form that is used. Now, I would like to ask -- that just deals, I take it, with the conditions of labour and rates of pay?

A. Conditions of work, rates of pay, yes.

MR. MILLS: I was wondering if I could interject at this time. That is a master agreement that covers the entire province from North Bay to Windsor to Montreal.

MR. COVERT: Perhaps for the record we should have your name?

MR. MILLS: W. Mills.

MR. COVERT: Now, Mr. MacArthur on the top of page 13, at the first paragraph, when you speak of competition being the life of trade, are you referring to competition between the truckers themselves or competition between the trucks and the railways or would you mind explaining that?

A. I would say fair competition between the truckers themselves and also from the angle of competition in regard to the railroads.

Q. I was wondering if your Union had given any thought to the possibility that too much competition, for instance, may be wasteful? Have you dealt with that at all or made a study of it?

A. No, I have not, sir.

Q. Has your Union considered at all the question of whether or not trucks should be allowed to carry goods for hire unless they receive a certificate of public necessity and convenience? Have you gone into that matter at all?

A. Not too deeply. We are familiar with it from the provincial angle, the issuing of P.C.V.

licences and so on. That is what you are referring to, is it?

Q. Yes, and does your Brotherhood feel that there should be a requirement for a public necessity and convenience before licences are granted to truckers?

A. Yes, that is correct, sir.

Q. For hire?

A. Yes.

(Page 9086 follows)

Q. The last point I want to deal with, Mr. MacArthur, was in the last paragraph of your brief. You say :

"In conclusion it is respectfully submitted that the future of this Dominion and its many provinces lies in the untrammelled development and utmost use of all forms of transportation --- "

When you say "untrammelled development" you do not mean that there should be no regulation of it at all?

A. No, that is not the purpose of those words there. It might have been better put in there as unrestricted development, and again, from the angle of a Federal regulation.

Q. I see, it is free from Federal regulation that you mean there, is it?

A. Yes.

Q. And not free from Provincial regulation?

A. That is correct.

Q. Then you go on:

" --- and utmost use of all forms of transportation with a further expansion of our network of highways --- "

I just wondered what you had in mind there? In other words, perhaps you mean that people should be able to take whatever form of transport they want. Is that what you mean?

A. That is correct.

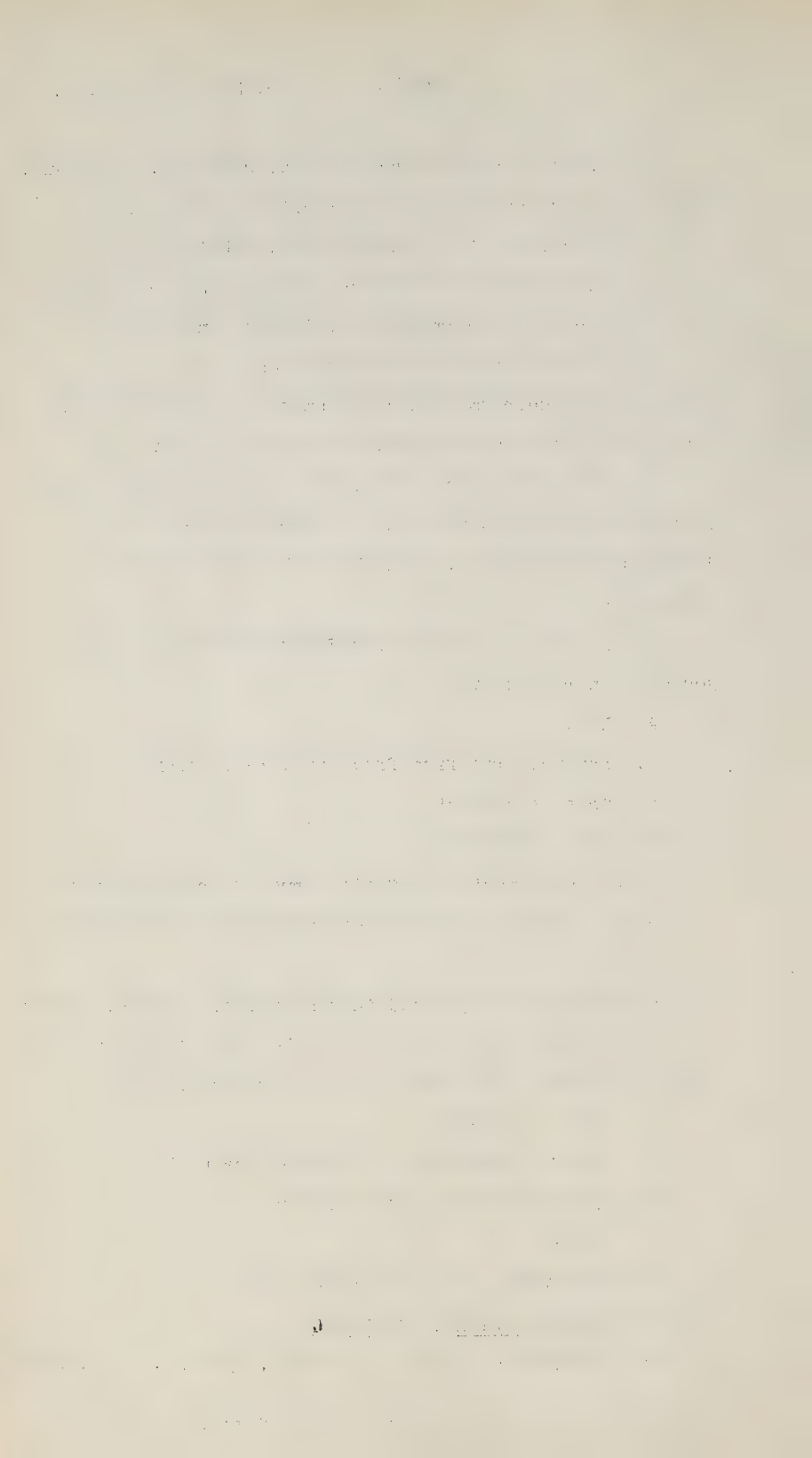
Q. For the utmost use. You don't mean that it should be used just for the sake of using it?

A. No, no.

THE CHAIRMAN: Any other questions?

CROSS EXAMINATION BY MR. O'DONNELL

MR. O'DONNELL: I have a few more, my lord. Mr. MacArthur on page 5 of the brier you give those figures to which Mr.



Covert referred to. Are not those figures taken by you from this little booklet that Mr. Mills has been good enough to let me have, the Automobile Manufacturers' Association publication, 1949 edition, entitled "Motor Truck Facts"?

A. Yes, I believe they are. He showed the source there.

Q. And with respect to these figures for 1942 of 216,057 trucks produced, and in 1948 of 96,941, are not you slightly in error when you say that those figures exclude all army vehicles? I think that is what you said.

A. Yes.

Q. Because the footnote at page 7 of this booklet under the heading "Canadian Truck Production and Wholesale Value" reads:

"Production figures above include all wheeled vehicles for military use; universal carriers and scout cars are not included."

A. May I see it? Yes, I am in error there, sir. I was quoting from memory. I was of that impression.

Q. That is understandable.

A. There were some styled like that.

Q. I quite agree, it is easy enough to make a mistake about it, but in 1942 they were producing a lot of wheeled vehicles for military purposes. Now the next paragraph on page 5, there you make reference to the figure (computation I take it to be) and you say:

"In the gas tax and license fees accruing from that number of trucks comes 40% of the provincial tax revenue -- "

This is in 1947 which is referred to two lines above. Have you any official records or figures that you could refer to in support of that statement?

A. We have no official records it is my understanding that these figures came from the Department of Highways of the Province of Ontario.

Q. The Province of Ontario?

A. Yes.

Q. Well, did you get that in the form of a letter or how did you get the information?

A. Information by word of mouth.

Q. And would you just state what the information was, because, you take in not only Ontario, as I read out, but you take in all of Canada.

"428,000 commercial and bus registrations in Canada".
You are referring not only to Ontario?

A. That is correct.

Q. You have no official records or figures to which you have had access?

A. No, I have not.

Q. In the next paragraph you say:

"In the 5-year period of 1939-43, the revenue from direct taxation on motor vehicles in the line of gas tax and license fees exceeded the cost of maintenance and construction of our highways in Canada by \$92,000,000."

Where, again, would one get official records or information to support that statement?

A. I believe that those are Federal Department figures.

Q. You have no more definite information than that available?

A. No.

Q. Now in the same paragraph you have another figure, and you say:

"In Ontario, for example the revenue over that

5-year period exceeded expenditure by \$32,000,000'. Where, again, have you obtained that information? Have you any official record for that?

A. No, I have not. Those are Ontario figures.

Q. Yes. Can you tell the Commission what allowance if any, was made in that figure for urban street expenditures?

A. I could not give that.

Q. Then would you please turn to page 6. I think you told my friend, Mr. Covert, that your statement in the second paragraph that:

" --- one out of every ten gainfully employed persons in Canada is dependent upon automotive transportation for a livelihood -- "

That is merely a computation based on American experience?

A. Yes.

Q. And in the next paragraph you give a dollar distribution of motor carrier revenue. Would you please indicate to the Commission why you feel that you could come to any conclusion in Canada or in respect to Canadian conditions, based upon I.C.C. figures in this particular connection that you refer to, because I would suggest to you that conditions in Canada are wholly different from what they are in the United States with respect to truck operation, for instance cost of running on winter roads, the distances that are covered, the level of wages, and the condition of the roads even?

A. Well, I cannot agree with you, sir, that they are wholly different. We cannot say they are the same, but I think we can say they are substantially similar.

Q. That is your off-hand opinion?

A. Yes, it is purely an opinion.

Q. Would you please turn to page 7 in the last

paragraph. You say there:

"It has been our experience in the trucking industry that those companies engaged in the movement of L. C. L. and other freight, between the wider points are in a much more stable position financially than the smaller operator --"
Are there any official records or sources of factual information available to anyone for the purpose of checking that?

A. No, we have no official figures in that regard, financial statements or otherwise.

Q. Now, you say there further that these larger firms (I take it) are in a sounder financial position and able to give more in wages and in working conditions. Now are not the wages higher in the case you refer to, due to the fact that certain of these operators operate over longer distances, and that there is a greater strain and greater risk on drivers, for instance?

A. No, we have a uniform wage scale in that regard,

Q. Now, you say in the third line from the bottom: "This Company's operations".

I take it from what you told my friend Mr. Covert, that that was some particular firm?

A. No, those companies operating between Toronto and Montreal and between Toronto and Windsor. There is a typographical error there and that might more properly read "These companies operating between" those points.

Q. I see. Would you have any objection to mentioning the names of any of the operators that you have in mind there? After all you know the names of the railway companies.

A. No, I can see no objection. Companies such as Kingsway Transport, Smith Transport, Inter-state Forwarders, Fleetway Transport Direct Winters.

Q. I thought those were the ones you might have in mind. In a paragraph on page 8 you say:

" Our highway drivers usually drive by night, where therefore goods shipped in one city tonight can be delivered on the consumer's doorstep miles away next morning".

What would you say would be the maximum distance for overnight delivery? You would not for instance be carrying from Quebec to Toronto?

A. No, no.

Q. What would be the maximum distance for that operation?

A. Say, eight hours at an average speed of 20-25 miles an hour, which would give you around 200 miles.

Q. You would say that would be a fair maximum radius of operation?

A. Between 200 and 250 miles, I would say sir.

(Page 9092 follows)

Q. Now, you say in the same paragraph that this service costs less, and I think you told Mr. Covert that the word "costs" there meant that less was charged for that service than would be charged by rail; in other words, the truck rate is lower than the rail rate for that service?

A. I believe so, sir.

Q. Now just go to the next paragraph, at the bottom of page 8, where you say:

" . . . the portion of commercial trucking carried on an interprovincial basis is minute: the vast portion being of an intraprovincial nature.."

Have you any figures or records of the extent of the interprovincial traffic? I think you said you had none; I am sorry.

A. No, I have not. I could estimate it from the number of our members that are engaged within the province as to those engaged in another province.

Q. It would be nothing but a guess?

A. No.

Q. You have no accurate information of any kind?

A. No.

Q. Would you just go to the last line on the page:

" . . . for the purpose of protecting, first of all, the consumer, the manufacturer, and the truck operator from unfair competition within the industry."

What do you refer to there as "unfair competition within the industry" from which you wish to protect the truck operator?

A. I suppose that would be the matter of the cutting of rates.

Q. Rate cutting?

A. Yes.

Q. As among truckers?

A. That is correct.

Q. And that has been a cause of serious complaint, has it not, on occasions by your union?

A. Yes.

Q. Incidentally, Mr. Mills, I take it, Mr. William Mills, the President and Business Agent of Local 938, the General Truck Drivers' Union, filed a brief, did he not, with the Minister of Highways of the Province of Ontario, complaining of a number of practices which were regarded as being improper, one of which was the cutting of rates among truckers themselves?

A. I believe that is so, sir.

Q. Now, in what way would you consider the consumer or the manufacturer would be protected, as referred to at the bottom of page 8 of your brief? How would you protect them there? What have you in mind?

A. I believe that is in regard to the matter of service rendered.

Q. And would it have anything to do with a uniform rate for all manufacturers in similar circumstances and conditions?

A. Yes, that is part of our reasoning there.

Q. And you consider that that is a right and proper thing to do, that there should be regulation of the trucking industry for that purpose?

A. Yes, on a provincial basis.

Q. And why are you so anxious that it should be on a provincial basis, particularly where you are dealing with interprovincial matters?

A. Well, we believe, sir, as it states in the brief, that the portion of the trucking business that is of an interprovincial nature is very, very small; and secondly, as we point out also in the brief, we believe, rightly or wrongly, that with the Government being interested in

railroads, there could be bias in that regard.

Q. And that is the only reason?

A. That is correct, sir.

Q. Now, at the bottom of page 9, Mr. MacArthur, you say:

"The trucking industry has grown to where it is today and can and will in our opinion continue to grow . . ."
and then I think you went on to mention something about the I.C.C. figures, and I think you said that it had not grown very much in the United States in the last few years?

A. The trucking industry?

Q. Yes.

A. No, I do not remember saying that.

Q. Well, have you any study or figures that would indicate the situation concerning the trucking industry in the United States during the last ten or fifteen years?

A. I have no figures; I believe there has been considerable expansion, however.

Q. Just one other question. At page 11, I think it was, or somewhere there, you told Mr. Covert that you did not think that truckers pick and choose the traffic that they carry. Are there very many truckers carrying sand and gravel, for instance, on hauls of any distance?

THE CHAIRMAN: Carrying what?

MR O'DONNELL: Q. Sand and gravel or any of the other very low rated commodities that the railways have to take under their obligations?

A. I believe there is, as far as sand or gravel is concerned.

Q. They would be merely local short-haul things, would they not?

A. Yes, I believe so.

Q. You would not consider Montreal to Toronto would be a proper run for the hauling of sand and gravel?

A. There would be no necessity.

Q. Or grain or anything of that kind?

A. There would be no necessity for it, because at Toronto or Montreal there is plenty of sand and gravel within twenty miles.

Q. Let us take grain, for instance?

A. Grain might be different.

Q. And gasoline in bulk, or coal, or oil, or any one of a number of others; your truckers do not pick and choose that kind of traffic, do they?

A. No.

Q. I did not think so. Now, on page 14 -- this is the last question -- you refer to the words "untrammelled development and utmost use of all forms of transportation", and you said there may be no regulation, as I understand it?

A. There does appear to be a contradiction there.

Q. Well, would your no regulation go to the extent of freeing railways from the regulations which bind them concerning the rates they must charge?

A. If they were not subsidized by Government.

Q. Well, would you be willing to allow them to put their rates down to take care of all the traffic that you now pick and choose, according to their way of thinking, and that you take from them, so that they might compete on the same footing with respect to rates that you compete on?

A. I just did not follow your question there, sir.

MR O'DONNELL: Would you read it back, please?

THE REPORTER: "Well, would you be willing to allow them to put their rates down to take care of all the traffic that you now pick and choose, according to

their way of thinking, and that you take from them, so that they might compete on the same footing with respect to rates that you compete on?"

THE WITNESS: As I understand the question, the railroads be permitted to lower their rates?

Q. Yes, to meet your competition?

A. Yes, I would say so.

Q. You would be quite prepared that that should happen?

A. Yes.

Q. Thank you.

CROSS-EXAMINED BY MR SINCLAIR:

Q. Mr. MacArthur, does your union feel that the regulations and the control of trucking by the Province of British Columbia and the Province of Ontario, which own railroads, is not satisfactory because they own railroads?

A. No.

Q. A few days ago we had the Canadian Brotherhood of Railroad and other Transport Workers before the Commission, and their view was that railroads should be permitted to engage in highway transport. What is the view of your union, or have you considered it?

A. We have not given it too much consideration, and this is purely an opinion: Provided that it did not develop into a monopoly of the industry, I see no reason why it should not be permitted to engage in the highway transport.

Q. Now, one last question: You have said that you believed that truck rates and service should be controlled, and you thought that provincial jurisdiction was adequate to do so?

A. That is correct, sir.

Q. Have you received advice from any of your advisers

that provincial boards can control the rates on international or interprovincial movement of goods?

A. Have I received advice from---

Q. Any of your advisers?

A. That the provinces could control? No, I have received no advice in that regard.

Q. And if they could not, you would think the Dominion should exercise it, if they had jurisdiction; is that right?

A. Yes, that could be presumed.

Q. That is all, thank you.

THE CHAIRMAN: Is that all?

MR COVERT: I think that is all. I understand no other counsel had any questions to ask.

THE CHAIRMAN: Then we will adjourn now.

---At 4:55 p.m. The Commission adjourned until 10:30 a.m.,
Friday, November 18, 1949.

A.R.

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ROYAL COMMISSION
ON
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ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO
FRIDAY, NOVEMBER 18th,
1949.

THE HONOURABLE W.F.A.TURGEON, K.C. LL.D. - CHAIRMAN

HAROLD ADAMS INNIS - COMMISSIONER

HENRY FORBES ANGUS - COMMISSIONER

- - - - -

G. R. Hunter,
Secretary

P. L. Belcourt,
Asst.Secretary.

- - - - -

COUNSEL APPEARING:

F.M.Covert, K.C. G.C.Desmarais, K.C.	)	Royal Commission on Transportation
Hugh E. O'Donnell, K.C. H. C. Friel, K.C.	)	Canadian National Railways
C.F.H.Carson, K.C. F.C.S.Evans, K.C. I. D. Sinclair	)	Canadian Pacific Railway
Wilson E. McLean, K.C. C. D. Shepard	)	Province of Manitoba
M.A.MacPherson, K.C.	)	Province of Saskatchewan
J. J. Frawley, K.C.	)	Province of Alberta
C.W.Brazier	)	Province of British Columbia
F.D.Smith, K.C.	)	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade.
J. Paul Barry	)	Province of New Brunswick
F. R. Hume M. L. Rappoport	)	Canadian Automotive Transportation Association.
R. Kerr	)	Board of Transport Commissioners
W. E. Darby, K.C.	)	Province of Prince Edward Island

ROYAL COMMISSION ON TRANSPORTATION

Ottawa, Ontario,
Friday, November 18, 1949.

MORNING SESSION

MR. COVERT: Mr. Sinclair has something for the record.

MR. SINCLAIR: Yesterday morning during the cross-examination of Mr. Moffat the question arose as to whether Manitoba had changed their position in regard to whether they had receded from retirement accounting for road property to renewal accounting for road property as set forth in their brief; and reference was made at page 9005 of the transcript of these proceedings to a passage in the 21% Case transcript. I would like to put on the record from page 12541 during the cross-examination of Mr. MacDonald, accounting witness for the Province of Manitoba.

MR. CHAIRMAN: Pardon, me, you mean the examination of whom?

MR. SINCLAIR: Mr. MacDonald, accounting witness for the Province of Manitoba. Page 12541 of the 21% case transcript as follows:

"The reporter reads: 'Well, Mr. MacDonald do you think renewal accounting today in 1947 would be acceptable for road property? A. I would not think so.

Q. You would not think so?

A. The I.C.C. does not even recognize renewal accounting, as I said in my Evidence in Chief."

The matter was also the subject of argument, and in the argument in the 21% Case of Mr. Evans I would refer to page 16019 of the transcript in the 21% Case.

MR. COVERT: Mr. Chairman, the next submission is that

of the Railway Association of Canada. I understand Mr. O'Donnell is putting that case.

MR. O'DONNELL: I asked Mr. J. A. Brass to go into the box.

MR. J. A. BRASS CALLED

EXAMINATION IN CHIEF BY MR. O'DONNELL

Q. Mr. Brass, you hold the office of General Secretary of the Railway Association of Canada?

A. I do.

Q. Will you please tell the Commission as briefly as possible what the Association is, what its objects are and who its members are?

A. The Railway Association of Canada consists of twenty railway lines operating in Canada, including the two major railways. The objects of the Association are to study the different matters in which the railways are interested and to deal with those matters on behalf of all the member lines. In addition, they handle wage matters with certain employees such as the maintenance of way
/ and the federated trades.

THE CHAIRMAN: Pardon me, do the employees of those divisions form part of your Association?

A. No.

Q. What do you do about them, then?

A. The Federated trades are employees, and the Railway Association makes wage agreements with them on behalf of the member lines of the company.

MR. O'DONNELL: It is the agency which negotiates with the employees through their unions, is it?

A. That is it.

Q. But the members of the Railway Association are the major railways, the Canadian Pacific, and Canadian

National and their affiliates and subsidiaries. If the Commission would be interested in having a list of the railways, I would hand a list to the reporter and he could put it on the record, if it is of any interest to the Commission.

MEMBERS:

Algoma Central and Hudson Bay Railway;
Canadian National Railways;
Canadian Pacific Railway Company and its leased lines; Dominion Atlantic Railway Company; Quebec Central Railway Company; Esquimalt and Nanaimo Railway Company;
Northern Alberta Railways;
Ontario Northland Railway;
Toronto, Hamilton and Buffalo Railway;
Central Vermont Railway;
Michigan Central Railroad;
New York Central System;
Pere Marquette Railway;
Wabash Railroad Company;
Temiscouata Railway;
Midland Railway Company of Manitoba

ASSOCIATE MEMBERS:

Essex Terminal Railway;
Pacific Great Eastern Railway;
Sydney and Louisburg Railway Company;
Napierville Junction Railway;
British Columbia Electric Railway Company;
Canada and Gulf Terminal Railway.

It will be found at Schedule A to the application which was filed for the 30% increase.

Now, the brief which the Railway Association is

presenting, I understand, Mr. Brass, was signed by you, - bears your signature?

A. It does, sir.

Q. And it consists of a submission and an Appendix which were prepared under the direction of Mr. F.A. Gaffney?

A. The brief and the exhibits were prepared by a standing committee of the Association of which Mr. Gaffney is the Chairman.

Q. Yes, and the brief will be presented by Mr. Gaffney and any questions in connection therewith should be directed to him?

A. That is right.

Q. Thank you very much.

CROSS EXAMINATION BY MR. FRAWLEY:

Q. Mr.Brass, will you give me the names of the standing committee that prepared the brief, of which Mr. Gaffney was chairman?

A. Mr. Gaffney will be on the stand himself.

Q. Mr. Gaffney will perhaps give us those?

A. Yes.

Q. Now, Mr. Brass, Mr. Gaffney is, I understand, ordinarily, a full-time employee of the Canadian National Railways?

A. That is my understanding.

Q. One of Mr. Fairweather's principal assistants in the Research Department, but the brief is presented with the full and complete support of the Canadian Pacific Railway?

A. It is presented on behalf of all the railway lines that are members of the Railway Association of Canada.

Q. So that I mean, the Canadian Pacific Railway supports it, fully and completely?

A. Yes.

MR. SINCLAIR: That is set out in our submission to the Commission. We rely on and adopt the submission. In our submission, we say we rely on and adopt the submission of the Railway Association of Canada on transportation matters. Apparently Mr. Frawley has not read the brief.

MR. FRAWLEY: Oh yes. Now, Mr. Brass, it is adopted and fully supported by the Northern Alberta Railways?

A. It is adopted by all the member lines, whose names are shown in the submission itself, Mr. Frawley.

Q. Was any draft of the submission put to Mr. MacArthur, General Manager of the Northern Alberta Railways before it was finally approved and filed?

A. I could not say, sir.

Q. Well, there really is not anybody else that could say, if you could not. Probably it was not. Is that what you say?

A. Mr. MacArthur would have a copy of it by this time.

Q. Yes, after it was prepared and filed.

A. Yes, there is a standing committee in the Railway Association authorized to deal with those different matters.

Q. Well, I asked for that, and I was told Mr. Gaffney would tell me it. I am simply putting it to you that Mr. MacArthur, General Manager of the Northern Alberta Railways did not see it in draft form as it was being prepared.

A. It was made on behalf of the Committee.

Q. That is true. That means Mr. MacArthur did not see it as it was being prepared in draft form?

A. No.

Q. And the General Superintendent of the Canadian National Railways for Alberta, situated at Edmonton,-- was it submitted to him in draft form, at any time?

A. I have no knowledge.

MR. O'DONNELL: My lord, I do not know that we need go right through the list of persons to whom it was submitted, or not. It is the submission of the Railway Association of Canada, and the members of the Railway Association include Canadian National Railways, and whether all the officers of the Canadian National Railways happen to have seen it or not, I think is quite immaterial.

THE CHAIRMAN: Have any of them protested since that they did not agree to this?

MR. FRAWLEY: No, no, sir, I simply want to bring it as close to the Province of Alberta as I can, because I am interested in nothing here but the Province of Alberta, and I simply want to know to what extent the high-ranking officers of the Canadian Pacific and the Canadian National in Alberta went over the brief.

THE CHAIRMAN: Went over the brief?

MR. FRAWLEY: Went over the brief and participated in it, before it was executed and signed and filed.

THE CHAIRMAN: I understand they have it now, in any case.

MR. FRAWLEY: That is true.

THE CHAIRMAN: And does not silence give consent?

MR. FRAWLEY: That may be a matter for inference, with respect.

MR. O'DONNELL: I just draw your lordship's attention to this, that both the Canadian National and the Canadian Pacific, there is the express statement in the submission that they accept the brief, and I think that avoids the loss of time in asking as to whether or not the manager of any one of them would agree or somebody else happen to know about it.

MR. FRAWLEY: There is no question about the Canadian National Railways being behind the brief -- there is no question about the Canadian Pacific being behind it. That is not my point at all. I want to know if it was prepared on the ground or in an office in Montreal? That is the simple fact, and it seems to me, with respect, that I am entitled to establish that before the Commission.

THE CHAIRMAN: Well, I understand the witness to say it was prepared by a committee.

MR. FRAWLEY: Yes, and you see, my lord ---

THE CHAIRMAN: A committee designated for that purpose.

MR. FRAWLEY: Yes, my lord, and if I had been able to get the names of the committee, that might have obviated some of these questions, because I do not have the names of the Committee, but I felt I had to pursue this question. I only have one more question.

THE CHAIRMAN: Do you want the names of the committee?

MR. FRAWLEY: Yes, Mr. Gaffney is going to give me them, I understand. I have only one more question for the record. Was this draft brief, before it was finalized and filed, submitted to the general superintendent of the Canadian Pacific Railway at Calgary?

MR. O'DONNELL: I just object to that question as a matter of principle. It is the formal presentation here on behalf of the Railway Association of Canada, and who may have seen it, all along the hierarchy of officials in either railway may have seen it, it is none-the-less the presentation of the Railway Association of Canada. My friend has no more right to ask that than I would ask whether Premier Manning reviews every piece of paper that my friend has in his notes. It is the same kind of question.

MR. FRAWLEY: My lord, I have one more question,. I am in your hands as to whether it should be asked or not, but I have one more question still not answered.

THE CHAIRMAN: Go on and ask it. What was the question?

MR. FRAWLEY: The question was whether it was submitted to the General Superintendent of the Canadian Pacific Railway for Alberta, situated in Calgary, before it was finalized and filed.

THE WITNESS: The submission was, of course, approved by the highest officers of the Canadian Pacific Railway. Whether or not they referred it to some junior officer in the line, I do not know.

Q. You do not know? And the general Superintendent at Calgary is a junior officer on the line?

A. I would say so, compared with the executive officers in Montreal.

MR. O'DONNELL: Thank you.

MR. FRAWLEY: Both our thanks, Mr.Brass.

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F. A. GAFFNEY - Called. Examined by Mr. O'Donnell.

Q. Speak directly towards the Commissioners, Mr. Gaffney, loudly, so that you can be heard. What is your position, Mr. Gaffney?

A. I am Transport Economist to the Department of Research and Development of Canadian National Railways.

Q. Would you tell the Commission of your experience in railway and transportation matters, -- the length of experience and what it has been?

A. I have been approximately thirty years with Canadian National Railways, and its predecessor companies. Eighteen years were spent in transportation activities, and approximately twelve in the Bureau of Economics in the Department of Research and Development.

Q. That is the department that my friend, Mr. Frawley, referred to as being the Department headed by Mr. S. W. Fairweather?

A. That is correct.

Q. Vice president of the Department of Research and Development. What are your duties, Mr. Gaffney, quite generally?

A. General economic studies, relating to transportation, with the particular duty of following the competitive aspects of rail-highway competition. In that respect, I have had the opportunity of appearing before each of the regulatory boards in Canada on numerous occasions, and before the Interstate Commerce Commission.

THE CHAIRMAN: You say, each of the regulatory bodies in Canada?

A. Yes, my lord.

. What do you mean by that?

A. There are only nine, -- one in each province, dealing with highway transportation.

Q. With highway transportation?

A. Yes, and I have also appeared on numerous occasions before the Board of Transport Commissioners.

(Page 9108 follows)

MR O'DONNELL: Q. Now, your services have at times, I understand, been used by the Department of Transport of Canada?

A. Yes. I have at various times surveyed for them and reported on the various ground transportation services in connection with the airports, that is, limousine services, and also the ground services of Trans-Canada Air Lines.

Q. By ground services you mean the transportation facilities back and forth from airports to cities?

A. Yes, the limousine services for the handling of commercial passengers.

Q. And you also, I am informed, made a study on behalf of the Government of Bermuda?

A. Yes, I was loaned by the railway to the Government of Bermuda in 1944, to make recommendations on the establishment of a public highway system, and the Commission adopted my report and it was partially implemented by Parliament.

Q. I understand, Mr. Gaffney, that the submission of the Railway Association of Canada was prepared by a committee under your direction, and the brief or submission, which bears the signature of Mr. Brass, will be presented by you?

A. That is correct.

MR O'DONNELL: And as part of the submission, the appendix, containing various documents and tabulations, which I think, my lord, it might be well at this point to produce as one exhibit, if that meets with the approval of the Commission.

THE CHAIRMAN: What is the exhibit?

MR O'DONNELL: The exhibit is the appendix to

the submission of the Railway Association of Canada to the Royal Commission on Transportation.

MR COVERT: It will be Exhibit 121.

THE CHAIRMAN: Q. Is it inside this?

A. It is an appendix to that, my lord; another volume, sir.

---EXHIBIT No.121: Appendix to submission of
Railway Association of Canada.

MR O'DONNELL: Now, my lord, I think it would considerably facilitate the presentation of the brief, and it was felt that the quickest way to present it would be to have Mr. Gaffney read it, and make whatever appropriate comments he might think necessary, and whatever references to the exhibits in the appendix. That will be a shorter way of presenting it than to interrupt him and ask questions and wait for the answers.

Q. Would you be good enough, Mr. Gaffney, then, to proceed with the presentation of the submission, making whatever comments and references you think appropriate?

A. Mr. Chairman and Commissioners:

On May 28th, 1949, this Association, comprising practically all the steam railways of Canada, presented to your Commission an outline of a submission to be made on the subject of highway competition with the railways and the desirability of a national transportation policy. This submission the Association now presents.

At the outset the Association reiterates the view that probably never before in the history of Canada has there existed such an urgent need of a National transportation policy, and one that will ensure to the people of Canada the best possible transportation service at the lowest real cost. In peace as in war an efficient transportation system is vital to the economy of the country, and this country's prosperity will be influenced

to the extent to which there is available speedy, reliable and adequate transportation economically operated.

A national transportation policy must primarily be concerned with railways because in any discussion of transportation facilities it must at once be conceded that the railways of Canada are and must remain the backbone of land transportation in this country. Efficient and adequate railway transportation is a continuing necessity for the development of the country, the support of commerce and for national defence. It follows that, being necessary to the welfare of the nation, it must not be subjected to unfair competition from other forms of transport, because unfair competition will inevitably endanger its ability to maintain its proper function in the economy of the nation. This country requires a highly efficient railway system operating economically and at the lowest cost; it cannot afford the luxury of wasteful and uneconomic competition. This must not be construed to mean that no other method of land transport should be permitted to operate, but it does and should mean, among other things, that all forms should be so regulated as to ensure that unnecessary duplications of service shall not be permitted and that those who obtain licenses to operate shall assume the responsibility the public has a right to expect from those who provide transportation services.

Before proceeding to a discussion of a national transportation policy this Association considers it desirable and pertinent briefly to review the back ground of the rail-highway competitive problem and the reasons for its existence.

Highway transport in its present form was made possible by the development of the internal combustion engine. The development of the gasoline engine was

hastened by the demand for a motor car capable of moving passenger at higher speeds than were provided by horses, and the success in this field was followed by demands for highways suitable for motor car operation. Prior to the World War of 1914-1918 there had been some effort to improve roads for automobile use, but the war temporarily restricted further development in this direction. However, during this period, improvement in the automobile engine continued so that at the end of the war there was in existence a machine capable of travelling at higher speeds than the existing roads would permit.

In the years 1916 and 1917 the gasoline engine was applied to trucks for the movement of goods. In the United States, particularly, railroad lines and terminals had become congested with war traffic and war supplies had to be moved by truck, sometimes for long distances, at rates which far exceeded railway charges. Even heavy traffic which normally would have moved by railway had to be transported by truck and fleets of trucks were so engaged. As cost was not a consideration in the conduct of the war it was inevitable that the advantages of the motor vehicle should be stressed while its limitations were overlooked. Not unnaturally, exaggerated views prevailed as to the place of motor transport in the economy of the nation, largely because of the conditions under which it came into use. There followed a long period of inadequate knowledge of the limitations of motor vehicles and their true costs, a period during which motor vehicle registrations grew rapidly. Improvements both in vehicles and highways were effected, and in fact as fast as improved roads were provided, vehicles of a sufficient weight to destroy them commenced operation.

On Exhibit No.1 is shown motor vehicle registra-

tions in Canada for the years 1904 to 1948.

Q. That is, Exhibit 1 in the appendix?

A. Exhibit 1 in the appendix.

Q. In Exhibit 121.

A. This indicates that while there was a steady increase in the years 1904-1915, the real expansion commenced in the latter year and, with the exception of the depression years 1931-1935 and the war years of 1941-1946, has continued to 1948 (the latest figures available) when 2,030,747 vehicles were registered. On Exhibit No.2 is shown a breakdown of motor vehicles by provinces commencing with the year 1921 and for various years to 1948. The per capita ownership of motor vehicles in Canada in 1948 (as shown on Exhibit No. 3)---

THE CHAIRMAN: All these are parts of Exhibit 121?

MR O'DONNELL: Yes, my lord.

THE WITNESS: ---is amongst the highest in the world, being only exceeded by the United States, New Zealand, Alaska and Hawaii.

On that Exhibit 3, my lord, you will find set out there the information for the various countries in the world for which it is available.

Concurrent with this vast increase in motor vehicle registrations, there has been a constantly expending program of construction and improvement of roads. A comparison of rural road mileages in Canada for the years 1930 to 1946 is given on Exhibit No.4, and indicates:

	Year	
	<u>1930</u>	<u>1946</u>
Mileage of surfaced roads	80,498	140,049
Mileage of improved earth roads	155,235	136,870
Mileage of other earth roads	<u>158,639</u>	<u>276,044</u>
	394,372	552,963

These figures indicate that in this period total

rural road mileages increased by 40% while miles of surfaced rural highways increased by 74%. A comparison of urban road mileages for the years 1935 to 1946 inclusive is shown on Exhibit No. 4 (a).

MR O'DONNELL: It might be well to have it clearly understood that the references in the submission to the exhibits are all to be found in the one Exhibit 121.

THE WITNESS: Before dealing in detail with the transportation problem created by the motor vehicle, it might be well to deal briefly with its economic possibility in providing transportation needs, both passenger and freight. There are quite obviously two limits defining the price at which transportation can be sold. On the one hand, unless subsidies are present, the price cannot be below the cost of providing the service. On the other hand, the price cannot be above the value of the service to the user. Relative costs of service might at first glance be considered the controlling factor in determining which of competitive transportation facilities would be used, but quite frequently the value of service rather than the cost will be found to be the controlling factor, especially if any difference in speed or other collateral advantage exists. To understand the growth of motor vehicle competition to the extent that it competes with rather than complements existing transportation agencies, it is necessary to understand the application of these two principles.

As a passenger conveyance the motor vehicle has two forms, the private automobile and the bus. In both forms it comes into active competition with the railways. It is, of course, difficult to differentiate between the pleasure and commercial use of the highways not only as regards private passenger travel but also as regards bus travel. In the main, however, it may be said that the motor

vehicle performs by far the greater part of this country's passenger travel. As an indication of the direct effect upon steam railways of the competition of the passenger motor vehicle a graph will be found as Exhibit No.5 showing steam railway passenger earnings, for all Canadian railways by years from 1900 to 1948.

MR O'DONNELL: My lord, if you would be good enough to look at that graph, possibly Mr. Gaffney might make a comment on it.

THE CHAIRMAN: Q. Tell me this first: Where you say the motor vehicle performs by far the greater part of this country's passenger travel, do you mean passenger travel for hire?

A. All passenger travel, my lord, private and for hire.

Q. You include private automobiles in the "private," do you?

A. Yes, sir.

Q. What is it we are to look at?

A. Exhibit No.5, my lord, the blueprint graph. On that has been plotted the railway passenger earnings from the year 1900 to the year 1948. You will see there a steady upward progression from 1900 to about 1920, when the motor vehicle really became a factor in passenger transportation. From there there is a slight decrease to the year 1929, followed by a very decided decrease from 1929 to approximately 1933, the depression years. There is a levelling off then between 1933 and 1939, and then the sharp upward trend during the war years to a high of something around 133 or 134 millions in 1944. That is followed then by a decrease from 1944 to 1948. You will also see projected a straight line from the year 1900, terminating at 1948, and that has been an attempt

to project the progressive increase in passenger earnings between the years 1900 and 1920, to indicate what they would have been had there been no motor vehicle competition throughout that period. At the bottom of the graph you will find, commencing with the year---

THE CHAIRMAN: Q. Pardon me. Does your line then assume that the railway earnings would have continued to rise at the same rate during the depression years if it had not been for automobiles?

A. That would be the assumption there, yes, sir.

Q. Do you think that is justifiable?

A. It is debatable. I deal with that a little bit farther in the brief, and at that point, my lord, there is another point on this graph that indicates the fallacy of such a projection. The motor vehicle when it came into use naturally increased the travel habit, so that it would be proper to assume that that line which we have projected from 1900 to 1920 would have taken a much sharper trend when the motor vehicle came into being, because it did increase the passenger travel habit, so that it is deficient to that extent.

Q. It took away a larger proportion of it?

A. From the railway, sir; but on the part of the people it did have them more travel-minded, so that it is a fair assumption that if you had the same population they would have done more travelling after the incidence of the motor vehicle than they did before.

(Page 9118 follows)

THE CHAIRMAN: If they had lost their motor vehicles?

A. Had they lost their motor vehicles?

Q. They had the incitement to travel anyhow which had been inspired by the motor vehicle?

A. Yes sir.

Q. And if motor vehicles had disappeared, then that line would have kept on going up despite the depression?

A. I think to quite an extent, sir. At the bottom of the graph, you will see signs that the year about 1922 we have plotted the estimated bus earnings. We cannot get actual earnings up until somewhere around 1940 when we did get them and you will see that in the year 1948 they are imported as something around \$43,000,000. And at that point I would like to direct your attention to the fact that at \$43,000,000 they are higher than the total revenue of the railways in the years between 1933 and 1939.

COMMISSIONER INNIS: Those are gross earnings?

A. Those are gross earnings, sir. To continue with the submission. On this graph is also shown the estimated interurban bus earnings from the inception of such service to the year 1948. It will be seen that from the real beginning of passenger motor vehicle competition (in 1920), there is a distinct falling off in railway revenues to the year 1929, followed by a decided drop from 1929 to 1933 (the depression years) a levelling off from 1933 to 1939, when railway passenger revenues tended to stabilize at about 37 millions a year, then the upward trend during war years, when gasoline and tire restrictions were in effect, and latterly the decided downward trend since gasoline and tires became available in quantity. The decrease from 1920

to 1939 might be attributable to two causes:

- (a) A restricted travel habit of the general public.
- (b) The use of motor and air transport.

The tremendous increase in motor vehicles registrations and gasoline consumption, together with an annual increase in population of about 2% of itself repudiates the suggestion that the travel habit has declined. Accordingly the only conclusion that can be reached is that the public is using in increasing degree motor and air transportation.

COMMISSIONER ANGUS: Have the rates charged been significant in any way in this table?

A. I would think so. A man owning a private automobile, assuming that he is going to own an automobile for pleasure, and he wants to take a trip say from Montreal to Toronto, the out-of-pocket expenses of that trip would probably approximate 3¢ a mile. That is about the railway rate, 3¢ or 3½¢ a mile, but if he drives alone he just about breaks even, but if he takes members of his family with him, two or three people, it is certainly cheaper for him to drive his car than to buy the railway tickets, and I think that has been a factor in the decline of railway revenue.

Q. I need something else as well. Were the actual fares charged on the railways uniform during this period?

A. To the best of my knowledge in Canada they were very largely, sir. I would not like to be arbitrary about that because they fluctuated so much, but my recollection is that there has been very little change until quite recently. I think Mr. Brass might perhaps clear that point up for you.

The fact is that the advent of the motor vehicle has probably substantially increased the travel habit.

However, assuming that the increased travel habit produced by the advent of the motor vehicle would not have produced any greater travel habit by rail, and merely projecting the normal trend, this Association estimates that passenger rail earnings of approximately \$125,000,000 would have been experienced in 1939. This can be compared with the actual passenger rail earnings in that year of approximately \$36,000,000. The fact that they reached about 132 millions in 1944 following the highway travel restrictions, supports this contention, even though the 1944 figures do include substantial amounts contributed by military travel, as does the fact that with the return of gasoline and tires in quantity railway passenger revenues decreased in 1948 to \$83,000,000.

Undoubtedly aviation is also a competitor, particularly in the long haul passenger field but it is improbable that the sharp reduction in railway passenger earnings is due to competition from air lines in other than small degree.

As an agency of freight transport the motor vehicle has made serious inroads into railway revenues. From a cost of service point of view the truck has a fairly defined but limited scope, but ignorance or disregard of costs has extended the use of these vehicles far beyond their economic sphere. As your Commission is undoubtedly aware, the paucity of reliable statistical data concerning this type of transport makes it difficult to analyse accurately the volume of work performed by trucks, but sufficient is known to make reasonably accurate estimates. Reference to Exhibit No. 1 indicates an increase in commercial vehicles from 533 in 1915 to 499,378 in the year 1948. As passenger buses are included in these figures (7,862 in 1948) together with ambulances, hearses and various

municipal vehicles, the actual freight vehicles would approximate 489,000. However, not all of the work performed by these vehicles is competitive with railways, there being a considerable amount of work performed by trucks in terminal zones which could not be performed by railway vehicles. Generally speaking this terminal work is accomplished by small trucks ranging from $1\frac{1}{4}$ to $2\frac{1}{2}$ tons in capacity. For this reason, the work performed by these vehicles has been excluded in this analysis, and there have been included only such types as handle traffic in what may be termed over-the-road movement.

Over-the-road vehicles now in operation range in load capacity from three to thirteen tons. The length of the run varies, the larger types tending to operate distances up to approximately 500 miles. It is pertinent to point out here that there are two distinct types of over-the-road operation. First, the smaller vehicles of three to five tons capacity which can handle traffic direct from the shippers to consignees, and, second, the larger vehicles of greater than five tons capacity which because of their size generally depend upon smaller auxiliary vehicles to perform the collection and delivery service and consolidate the traffic at some focal point for transfer to the larger vehicle. This latter type of operation resembles that of the railway. The amount of traffic handled and the work performed by over-the-road trucks must, (by reason of the lack of reliable statistical data) be estimated but based upon known factors and those developed by various studies in Canada and reports made by State Highway Commissions in the United States, an estimate has been made of the ton miles of freight trucked in Canada in the year 1948 in competition with railway service. This

study indicates that during that year the ton miles operated by Canadian railways, compared with the estimated ton miles of over-the-road transport were as follows:

	<u>Work Performed in Ton Miles</u>	<u>Percent</u>
By over-the-road trucks	5,304,750,000	8.25
By steam railways	59,001,420,000	91.75

From this table it is apparent that over-the-road trucks performed 8.25% of the work and the railways 91.75%.

Q. When you say "In competition with railway services" does that mean all competitive routes or does it mean that this is the total truck traffic and the other is the total railway traffic?

A. That is correct sir.

Q. The second?

A. Yes, the total truck traffic in what we term "over-the-road movement" exclusive of the private vehicles.

On the face of it, the amount of traffic on a ton mile basis moving over the highways would not appear to affect the railways seriously. However, this is by no means the whole picture. Unfortunately for the railways the classes of traffic vulnerable to highway competition are those in the higher rate brackets paying from 3¢ to 10¢ a ton mile. Every Commission in Canada or the United States investigating truck operating costs has established a cost of between 3¢ and 5¢ a ton mile, and trucks will not generally attempt to handle traffic paying less than these rates. The report of the Royal Commission on Transportation, Province of Ontario, 1938 (Chevrier Commission) established a cost at that time of 4.08¢ a ton mile (pages 120 and 121). Since then costs have

increased substantially. This means that, by and large, the traffic diverted from the railway to the truck is that above 3¢. On the basis of 3¢ per ton mile for the estimated 5,304,750,000 ton miles performed by trucks in 1948 the revenue amounts to approximately 160 million dollars. At 4¢ per ton mile, which probably is about the average, the revenue amounts to \$212,000,000 per annum.

A comparison of the freight revenues of Canadian railways (in part estimated) with the estimated revenue of over-the-road trucks for the year 1948 is as follows:

	Year 1948 <u>Freight Revenue</u>	<u>Percent</u>
Canadian Railways	\$696,954,000	76.7
Over-the-road trucks	212,000,000	23.3

A review of this table and that immediately preceding it indicates that the trucks performed 8.25% of the work and obtained 23.3% of the land transport revenue. This means that the railways did 91.75% of the work for only 76.7% of the revenue.

This Association does not express the view that all of the traffic now handled by highway should be handled by railways. There is a portion of it which could not be done by railway vehicles and another portion which on an economic basis should not be done by railway vehicles because in this field the truck is superior in cost and convenience. However, it is estimated that a substantial proportion (probably about 50%) of highway freight traffic in Canada is beyond the economic limits of truck haul and results in a loss of many millions of dollars annually in net revenue to the railways. This is illustrated by the graph appended, Exhibit No. 6.

And might I ask, my lord, that you turn to Exhibit No. 6. I will continue reading from the text because I think it is quite explanatory of the graph.

There are plotted on this graph a series of curves indicating the estimated cost of operating trucks of various capacities over mileages up to 500 miles. The costs reflected in these curves represent the following elements:

Interest, Depreciation, License, Insurance, Maintenance, Operation.

The graph also includes two additional curves representing railway out-of-pocket costs for less than carload movements and for carload movements. The out-of-pocket costs include shed costs and pick up and delivery costs in the case of less than carload traffic and include cartage charges for carload traffic. The reason for including cartage charge with carload costs is to produce more nearly a comparison with the service performed by trucks, although the cartage charge is not included in the railway carload rates, nor is cartage performed in most cases. There is included also in the out-of-pocket costs merely system averages of maintenance of way and structures expenses, transportation expenses, maintenance of equipment expenses, but there is excluded any return on investment, fixed charges, depreciation and general overhead expenses.

There are two reasons for using the trucking costs on a substantially all inclusive basis while using railway costs on an out-of-pocket basis. First, the truck is a small unit and the carriage of any substantial additional amount of traffic cannot be accomplished without adding to the equipment. Second, the right of way used by the trucks is the highway with a substantially unlimited capacity. In the case of the railway, the out-of-pocket costs represent the minimum below which it would not pay the railway to carry the traffic.

The figures used in the out-of-pocket cost curves shown on Exhibit 6 are system averages of the Canadian National Railways, no attempt having been made to get the data for other railways. From this it may be seen that while the truck is the economic carrier in the short haul field the railway is unquestionably the economic carrier in the long haul field. This reflects the high terminal and low line-haul cost of rail movement, compared with low terminal and high line-haul cost of truck movement. It is clearly demonstrated that as the distance increases the economy of railway operation becomes more marked. A tabulation of the economic range of trucks compared with railway less carload out-of-pocket costs is indicated below:

<u>Type of Truck</u>	<u>Economic Radius Compared with Railway</u>
3 ton single units	52 miles
4 ton single units	78 "
5 tons single units	91 "
8 ton tractor-trailer	63 "
10 ton tractor-trailer	84 "
13 ton tractor-trailer	97 "

To explain the graph, perhaps starting with the first line, which is the estimated cost of a three-ton truck, and then taking the yellow line which is the railway out-of-pocket costs, it will be seen that the three-ton truck crosses the yellow line at approximately 52 miles. In the case of a four-ton unit, the crossing point is approximately 78 miles, and so on, down with the various units.

Now that is a comparison on a cost basis of truck transport and rail transport of less than carload traffic. You will also see on that graph a red line which follows the outside practically all the way, and that is the railway carload cost.

To continue with the submission:

It will be seen that as compared with railway less carload out-of-pocket costs the most economic highway vehicle is that of 13 tons capacity operating within a radius of 97 miles.

Reference to the graph will illustrate that point. The line of the 13 ton truck crosses the yellow line, the railway less carload out-of-pocket costs, at approximately 97 miles.

On the other hand, as compared with railway carload out-of-pocket costs no type of highway vehicle can operate economically beyond 15 miles.

That is also illustrated on the graph.

Over-the- road vehicles now in operation range in load capacity in general from three to thirteen tons. The length of run varies with the size of the vehicle, the larger types operating distances up to approximately 500 miles. An estimated division of 1948 truck transportation between that performed by vehicles operated in their economic sphere, as shown by Exhibit No.6, and those operating beyond their economic range indicates the following:

	<u>Work performed in ton miles</u>	<u>Percent</u>
By trucks operating in their economic range	2,636,802,000	49.7
By trucks operating be- yond their economic range	<u>2,667,948,000</u>	<u>50.3</u>
	5,304,750,000	100%

Stated another way, about 50% of the \$212,000,000 estimated as annually obtained by highway transport accrues to truckers operating beyond their economic sphere.

THE CHAIRMAN: Pardon me, is this on the lines operating at a loss?

A. No, beyond their economic sphere, compared to railway cost. In other words, the operation of the truck

beyond the limits shown on Exhibit 6, we estimate to be about 50% of the total truck haulage in Canada, and that that 50% could be done more cheaply by railway.

COMMISSIONER ANGUS: At out-of-pocket costs?

A. At out-of-pocket costs, sir.

THE CHAIRMAN: Why is it not done that way, then?

A. I will come to that in the brief, my lord. It is a very personal question.

Bearing in mind that the average ton mile earnings of this traffic is 4¢, while the average cost of handling railway freight traffic is approximately 1.2¢, it is obvious that a large amount of net revenue is involved.

In addition to the losses of traffic to the truck it is estimated that at least 50 millions of net revenue is being lost annually by the railways as a direct result of reductions in freight rates to hold other competitive traffic to the rails.

Having developed an estimate of the magnitude of the rail-highway competitive problem, it is now pertinent to enquire into the reasons for its existence, and particularly why the truck can and does compete for and obtain traffic beyond the economic sphere of its operations. Admittedly in the short haul field the truck is superior in cost and service. In the long haul field, however, both cost and service favor the railway, yet the railway annually loses a large amount of traffic to the truck in this latter field. The answer therefore must stem from factors other than cost and service.

First of all, to appreciate the railways' competitive position with highway transport for freight traffic, it is necessary to discuss the railway rate structure and the reasons for the existing method of charging.

At the outset it may be said that Canada has a greater interest in the provision of rail transportation than any other country in the world, due to the fact that its economic life depends to a greater extent upon the cheap movement of large quantities of basic commodity goods moving long distances. The sale of these goods in open competition in world markets is made possible in large measure by the fact that we have in this country the cheapest rail transport in the world. We in Canada are the heaviest users of rail transport per capita, being only approached by the United States; no other country in the world uses more than one quarter of the per capita amount used by Canadians.

The average cost of transporting freight by rail in Canada in 1948 was approximately 1.2¢ per ton mile. To arrive at the allocation of this ton mile cost to Canadian shippers, the railways have a tapering rate scale based upon the principle of charging what the traffic can afford to pay rather than upon the actual cost of moving each commodity. Under this principle of allocating transportation cost, one commodity may pay as much as 10¢ per ton mile while others move more cheaply at 9¢, 8¢, 7¢, and so on down the scale until finally some commodities yield well below one cent per ton mile, which is below the average cost of moving all commodities. Other commodities also move at rates below average total cost and in fact about 50% of the traffic of Canadian railways in the year 1948 moved at rates below one cent per ton mile. Another group of commodities comprising about 25% of rail traffic moved at about the average cost of 1.2¢ per ton mile. This means that the remaining 25% must move at rates sufficiently

above the average cost to make up for the 50% moving below average cost.

It is such a rate structure that makes possible, among other things, the movement of basic commodities so that they can be sold in world competitive markets. Without such a rate making principle, these commodities would not move freely for long distances to markets. Under this method of rate making, the railways are constantly being called upon to grant rates at very low levels to enable an industry suffering under some handicap, possibly the distance it must move its raw products or its finished products, or both, to compete with better located industry. In addition, conditions arise where the railways must assist communities in the marketing of their products by moving traffic at very low rates, and often infant industries are similarly assisted to enable them to get started.

THE CHAIRMAN: Pardon me a moment -- in that preceding paragraph you talk about the railway being constantly called upon to carry commodities at low rates, you say -- "to compete with better located industry". Do you mean in Canada?

A. In Canada, my lord, yes. I am dealing only with Canada throughout the brief.

Q. I thought you meant competition coming from elsewhere, maybe?

A. No, largely within Canada.

Q. That is, the railways make, in effect, a lower rate to favour an industry which is competing with another industry, also located in Canada?

A. Yes, my lord.

With the incidence of truck competition however, the situation became radically changed. The trucker upon

entering the transportation field was not concerned with quoting cheap commodity and low export rates in the national interest; he was and is concerned only with moving the class of traffic that will yield him a profit. Thus with minimum costs of 3¢ a ton mile the trucker disregarded the low rated traffic but immediately attacked the traffics paying the railways more than this amount. Because of the rate making system employed by the railways the trucker was able to quote rates greater than this cost in order to obtain the traffic and still be below the rail rates. This has ~~xxx~~given rise to the belief that trucking is cheaper than rail movement, because on the traffic the trucks move the rate charged the shipper is generally the same or less than that charged by the railway. Of course it does not cost the railways these amounts to move these classes of traffic. These are the rates which the railways must have to make up for the low grade traffic handled at low rates in the national interest. It is clear therefore that while in general it costs four to five times as much to move traffic by truck as it does by rail, the fact that competition on a rate basis is possible in the long haul field is due entirely to the nature of the railway rate structure.

(Page 9133 follows)

The problem is not easily remedied. At first glance it would appear that the railways could reduce their rates on higher rated commodities to the cost of service by highway and by so doing destroy highway competition, while at the same time enjoying a comfortable margin of profit. It must be remembered however that these higher rates are those which enable railways to make rates low enough to allow marginal commodities to move to market. If the railways were to reduce these higher rates to a point which would destroy highway competition they would require substantial increases in the rates on basic commodities. The railways would still be faced with the necessity of moving low-grade commodities at lower than average cost, but would lack the money to do so. On the other hand, should the railways adopt the principle that all commodities should bear their full cost of service, highway competition would be destroyed, but the disruption to the economy of Canada would be incalculable. Here it must be remembered that the railway has been used to extend marketing as widely as possible and any differential rise in the freight rates on low-grade commodities (which would result from applying the cost of service principle) must be reflected in lowered marketing and reduced production. This then is the problem of the railways in meeting highway competition.

This problem is not confined to Canada alone. It is one which has faced every country in the world requiring organized transportation and as yet no solution has been found. The problem admittedly is a difficult one. No student of it could deny, for example, that highway transport has a proper and legitimate field; the problem is to provide equality of opportunity as a result of which the economic field of the competing forms of transport can be

determined. Only then can each form of transport operate to its maximum efficiency in its own sphere. In other words the activities of each method should be so regulated on sound economic grounds that the interplay of commerce will allocate to each facility that part of the nation's transport it is best fitted to perform.

THE CHAIRMAN: Q. When you say "will allocate to each facility", would that be exclusively to each facility?

A. Not necessarily so, my lord.

Q. I think in some cases, though, it must be so?

A. In some cases it would have to be so.

Q. When you say, for instance, earlier, something about the economic field of road transport, operating beyond their economic field, although they themselves can make money by doing that, you would say, though, they should not operate in that field at all; is that right? -- that in the general economic interests of the country the railways be given that field to make up for other fields where the operation---

A. As a generality, my lord, yes, but I am not stating in here that highway transport should be confined exactly to that economic field that we determine by dollars and cents, because there are other considerations -- that is, the consideration of convenience and other things that do enter into the general economic field. I have in mind one example, the movement of---

Q. This means, does it not, that there are certain geographical fields from which you would exclude the automobile? Isn't that right?

A. I think that would be true as a generality.

Q. Even although the automobile company itself

could make money there?

A. Quite so, sir, quite so.

Q. Yes, I understand. You were about to give an example?

A. The example I was about to give you was the movement of household goods. There is an ease and facility there that the trucker can give to the shipper that the railway simply cannot give, and it would be ridiculous in my opinion to attempt to confine the movement of household goods to something under a hundred miles, as we determine to be the economic field here.

Q. You say it would not be right to confine that to the railways?

A. Or confine the truck to that area, sir, up to a hundred miles.

Q. To give the larger area to the railways?

A. That is correct.

Q. Like, for instance, moving household goods from Toronto to Montreal?

A. The truck can do that much better than the railway can, sir.

Q. Well, it is more than a hundred miles?

A. Yes; that was my point. I had no intention of confining the movement of household goods by truck to a distance of only a hundred miles, because there are other facilities there that they can give to the public and which should be considered in any transportation policy.

Q. I understand.

A. This principle was recognized in the report of the Sirois Commission who, after study of the problem said: (That reference is at page 208, volume 2, of the Sirois Report):

"Given a disposition on the part of the various

governments to coordinate their controls over transportation and their financial aid, so as to leave each type of transport a chance to perform on remunerative terms those classes of service which it is best adapted to perform, the Canadian transportation problem may not be insoluble."

This in our view involves coordination of Dominion and Provincial control over all land transport. In Canada today no such coordinated control exists. Regulation of highway operations is in the hands of the Provinces with the result that there are ten different sets of regulations with ten different Provincial Commissions, each attempting to control highway operations in the way each sees fit and each applying different principles in the exercise of that control. In these circumstances, therefore, a uniform basis of dealing with this problem along sound economic lines could hardly be expected and this has been one of the major disadvantages in attempting to deal intelligently with the competitive aspects of railway and highway transportation in this country.

This Association submits that the adoption of a sound national transportation policy is necessary to a solution. It further submits that an essential element of such a policy should be uniform control of all land transportation which in turn should embrace uniform regulation and control of highway transport, a determination of the costs of the highway system chargeable to users and an adequate and proper distribution of such costs amongst the various classes of motor vehicles. It is with these latter principles that we now deal.

REGULATION AND CONTROL

With the increase in commercial motor vehicles and the attendant chaotic conditions resulting from over-

crowding and consequent cut-throat competition, came a demand for some form of regulation and control of highway transport. As is usual in such cases, opinions varied widely as to the form such regulation should take. This has resulted in regulations of all kinds varying from actual prohibition of trucking to no regulation at all in different parts of the world in the past twenty years. These regulations, up to the present at least, have been of no material assistance to the railways. This is understandable when it is realized that such regulations as have been attempted have aimed primarily at protecting highway transport from its own activities, with railway or national interest getting scant, if any, consideration.

Of primary importance in the field of highway legislation is that in so far as possible, and having due regard for legitimate regional differences, the regulations in each Province should be uniform. There are three basic factors in the regulation of highway transport; safety, service, and protection of the right-of-way against improper use.

Safety regulation begins with the design of the vehicle, and is concerned with width, length, field of vision; it includes inspection, insurance, qualifications of the operator, speeds and traffic regulation.

Service regulation for the common carrier vehicle extends to operating rights, schedules and rates; for the private vehicle it is almost entirely a matter of ensuring orderly traffic flow. Somewhere in between these two is a third type, the "contract" carrier, whose presence introduces special problems into the field of schedule and rate regulation.

Protection of the right-of-way against improper use is primarily a matter of ensuring that the highways

shall not be used by vehicles whose gross weights or axle loads approach or exceed the breaking point of the road surface; that heavy vehicles are not operated at destructive speeds; and that the seasonal restrictions imposed by climatic conditions are observed.

In regulation, as in fees and the granting of licenses there is no uniformity in Canada. This is made plain by an examination of Exhibits Nos. 7 and 8 which are comparisons of the more important features of the highway legislation and of the practices in issuing licenses in each Province.

In the case of safety, with ten different provincial codes and countless municipal variations, it is impractical to attempt a comprehensive summary of safety regulations. However a summary of the factors over which provincial regulation is exercised has been prepared and is included on Exhibit No. 7. The maximum permissible width in nine Provinces is 96 inches, but in Newfoundland it is 90 inches. The maximum height varies from twelve feet to fourteen feet six inches with the exception of Ontario and Newfoundland in which Provinces there are no height restrictions. The permissible lengths vary from thirty three to thirty five feet in the case of single units and from fifty to eighty-five feet in the case of combinations, with the exception of Newfoundland where there are no length restrictions. Insurance requirements for public liability and property damage, with the exception of Newfoundland, are uniform, but those for cargo and fidelity insurance vary quite widely. An examination of Provincial legislation will also disclose wide variations in the examinations for competence of vehicle operators. Several of the American studies have treated the subject of safety extensively and virtually all are in agreement as to its

importance. In this respect the study by Griffenhagen and Associates "A Highway Improvement Program for Illinois" pages 87 to 97, is informative.

In service regulation (operating rights, schedules and rates) the same lack of uniformity exists. This is particularly noticeable in the degree of control exercised over the issuance of public service vehicle licenses. In all provinces except Prince Edward Island and Newfoundland the legislation requires that bus licenses may only be granted upon an adequate showing of public convenience and necessity. In Prince Edward Island and Newfoundland bus licenses may be granted at the discretion of the regulatory authorities.

MR O'DONNELL: My lord, it occurs to me that possibly, inasmuch as the entire brief will appear in the transcript, Mr. Gaffney might, for the purpose of saving time -- unless your lordship prefers that he continue as he is doing -- comment briefly on some parts and go on reading.

THE CHAIRMAN: Oh, yes, we can follow that practice. Take the whole brief as read to begin with?

MR O'DONNELL: Yes, my lord; if the writer would just follow the brief in the transcript, and insert whatever comments Mr. Gaffney may make at the different places, that would be quite satisfactory, I think.

Q. Perhaps you could follow that suggestion, Mr. Gaffney?

A. Yes. I think we had just finished with the degree of control exercised over bus licenses.

THE CHAIRMAN: In all provinces except in Prince Edward Island and Newfoundland.

THE WITNESS: And Newfoundland.

THE CHAIRMAN: Q. You are going on now to say

what Prince Edward Island and Newfoundland do?

A. Bus licenses there may be granted at the discretion of the regulatory authorities; in other words, it is left entirely in the hands of the Board.

No such uniformity however applies to the issuance of common carrier truck licenses. Public convenience and necessity is stated to be the governing factor in all provinces except Newfoundland, Prince Edward Island, Nova Scotia and Alberta. In these latter provinces no form of control is exercised over trucking operations other than safety requirements and payment of the prescribed fee.

Q. By the way, that word "necessity" in these cases, has it ever been defined? I can understand public convenience, but what is public necessity? Does it mean there is no other way of transporting goods and passengers in a given locality?

A. I would take that to be one interpretation of it, sir. I do not know that I have ever seen in any legislation in the world a real definition of necessity as applied to transportation, but, as we show further along in this brief, I think the best interpretation of the term "public convenience and necessity" is included in the Transport Act of 1938 in Canada.

Q. It defines them both together, does it?

A. I believe so, sir, yes.

Q. I think it would be easier to understand public convenience than public necessity as a requirement to licensing motor traffic. It would seem to me to be capable of a very strict interpretation. But you say these terms are defined where?

A. They are defined very clearly, we think, in the Transport Act, 1938, and we have included that interpretation on the following page of our brief.

Q. You mean the Dominion Transport Act?

A. The Dominion Transport Act, 1938.

MR O'DONNELL: The extract from the Act is on the next page.

THE WITNESS: The extract from the Act follows on the next page, sir.

THE CHAIRMAN: Q. Oh, you are coming to that very thing, are you?

A. Yes, sir.

Q. I see; I just anticipated.

A. Yes.

In the six provinces which require a showing of public convenience and necessity there are great differences in the manner in which the term "public convenience and necessity" is interpreted, as well as in the types of evidence accepted by regulatory boards as proof that there is in fact a public need for the services of those applying for trucking rights. Reference to Exhibit No.8 will emphasize this point.

And on that exhibit is shown as best we could gather a resume of the practices in vogue in the various provinces throughout Canada.

MR SINCLAIR: That is what the statute says.

THE CHAIRMAN: I beg your pardon?

MR SINCLAIR: The witness said those were the practices. I was wondering if that is what was in the statutes, a regulation without having anything to say about how they were enforced, or was it an attempt to say also that, even though they were statutory provisions, they were enforced.

THE CHAIRMAN: For instance, we have in this exhibit an illustration of that. Item 6:

"Will the Board refuse a license where the

applicant is opposed only by a railway, and not by highway operators?"

In the case of Nova Scotia the answer is "Yes", in New Brunswick it is "Yes", in the others it is "Very seldom" or "Not likely" or "No experience"; but in Nova Scotia and New Brunswick apparently license has been refused sometimes on the ground only that the applicant was opposed in his application by a railway.

(Page 9148 follows)

COMMISSIONER INNIS: Your point, Mr. Sinclair, is there is a great difference between statute and administration?

THE CHAIRMAN: This gives the administration I think, doesn't it?

A. Yes sir.

Q. It says "Will the Board refuse a license where the applicant is opposed only by a railway, and not by highway operators?"

THE WITNESS: Rarely indeed will these regulatory boards refuse to issue a certificate in cases where the applicant is opposed only by the railways and not by other truckers -

THE CHAIRMAN: We have just heard there about Nova Scotia?

A. Nova Scotia, sir, has no direct control. That would apply only to buses in Nova Scotia.

Q. And the same in the case of New Brunswick?

A. There is truck control in New Brunswick, sir.

MR. SINCLAIR: That is not the point, my lord. We had on the record, I thought, an official statement from the Government that while the legislation was in effect that in practice the administration was not to enforce anything.

THE CHAIRMAN: You mean in the case of New Brunswick?

MR. SINCLAIR: Yes, my lord.

THE CHAIRMAN: Then if what you say is right, there is something in this exhibit which is questionable because it purports to compare the practices in the various provinces in the issuance of bus and truck licenses, and then in the case of New Brunswick: "Will the Board refuse a license where the applicant is opposed only by a railway and not by highway operators?" The answer is given

as "Yes". Then, according to what you say, Mr. Sinclair, that is not what we heard in New Brunswick?

MR. SINCLAIR: Yes my lord.

THE CHAIRMAN: We heard there that these regulations were being disregarded?

MR. SINCLAIR: Government policy was to disregard the statute.

THE CHAIRMAN: So that even in a case where a railway might oppose an application, the Board would grant the application?

MR. SINCLAIR: I am not particularly coming to that point but that would be one point involved.

MR. BARRY: There was a letter or an exhibit - I forget in what form it was put in - from the Secretary of the Motor Carrier Board referring to a statute to which the witness has reference and stating that it was impossible of enforcement and on that account was not enforced.

THE CHAIRMAN: Then you do not agree with this exhibit?

MR. BARRY: Well, if the witness relied on the statute I can understand his error because the statute would lead him to believe that the situation is as he states, but in fact it is not.

MR. COVERT: Mr. Chairman, I suggest we find out from the witness what he has relied on, statute or practice, and how the exhibit is made up.

A. I was coming to that point, my lord. This is a combination of the statute and experience and I do not know what has been said to your Commission by the New Brunswick Government but I can tell you what has been my own experience in appearing before the Board and that is if someone says they disregard their statute in

the enforcement of the regulations, it is not actually true, because they do enforce some of them and no longer ago than a year and a half, I appeared before the New Brunswick Board on a rate case, an application by our own truck line for a rate and was refused and the "Yes" that appears in here to answer the question "Will the Board refuse a license -" there was a case some years ago - I was on it and I can't for the life of me now recall the case, but the Board did refuse a license on opposition from the railway.

THE CHAIRMAN: Where?

A. In New Brunswick and the fact is I think they do partially regulate their transportation but my recollection is that the statute is honoured more in the breach than in the observance.

Q. This must refer to the practice rather than the statute?

A. That is the practice, sir, and we were trying to be fair. If we knew of any cases where they had done it, we qualified the answer to that question.

MR. SINCLAIR: I think that is the point, the practice varies from point/^{to point} and day to day, possibly.

THE CHAIRMAN: In New Brunswick?

MR. SINCLAIR: Maybe in many Provinces, my lord, depending who the applicants might be.

THE CHAIRMAN: Yes.

THE WITNESS: Rarely indeed will these regulatory boards refuse to issue a certificate in cases where the applicant is opposed only by the railways and not by other truckers. In other words, provincial regulatory commissions, by and large, entirely disregard the presence of railway service in the area for which an applicant requests a certificate, and by so doing exclude from considerations

of public convenience and necessity, the adverse effect upon the railways of the trucking licenses so granted.

THE CHAIRMAN: By the way, I notice in the case of British Columbia, they answer your question by the words "Not as a rule". Well, we heard of one case out there where in fact they did refuse licenses to truckers on account of the railway being there, and as they said "Giving satisfactory service".

A. Yes my lord, I know of those cases but I also know of others when they disregarded them.

MR. HUME: Mr. Chairman, while we are on that particular exhibit and it is open in front of you, I notice that the table shows that the answer so far as Ontario is concerned is "No", and while we are on the subject, I have two cases with the dates and the name of the applicants where the Municipal Board in Ontario refused application for a trucking license where the only opposition came from a railway representative, so in due course we may put them in, but I thought that might very well be corrected. I am not too familiar with the number but I do know of two where the only opposition was railway opposition, and the license was denied so "No" is not correct.

THE CHAIRMAN: They do not appear in your table?

A. Well, there may be cases in Ontario, my lord, but after twelve years of appearing before that Board and following their decisions I know of none.

MR. SINCLAIR: I think that a statement like Mr. Hume put on the record with such few facts, there might have been other truckers right in the area and the Board might have felt that just because the railway opposed even if nobody else opposed.

MR. HUME: I am only talking about exhibit 6 -

"Will the Board refuse a license - ?" and the answer was "no" and I am giving two cases where the answer was "Yes".

MR. COVERT: Let us reserve the argument until later.

THE CHAIRMAN: It is better to raise it now because if it goes along these things are not noticed.

A. I think there might be some confusion between Mr. Hume and myself but the Ontario Board in adjudicating truck applications, do take into consideration the existence of other truckers and while they might not appear and oppose the application at the time, the fact that they are in the area is given great weight in the decision.

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In the opinion of this Association, the effect of a proposed service upon existing transportation services, whether by rail or highway, is a vital element of public convenience and necessity. Failure to give adequate consideration to this factor is a serious defect in present practices of provincial regulatory commissions. This Association believes that it is fundamental to any proper form of regulation that there be incorporated in the legislation a comprehensive interpretation of the term "public convenience and necessity" and that provincial commissions charged with the responsibility of adjudicating highway service applications should rigidly conform to its provisions. In the opinion of this Association, the Transport Act 1938 in Section 5 (1) contains such an interpretation. For ready reference it is quoted hereunder:

"Before any application for a license is granted for the transport of goods and/or passengers under the provisions of this Act, the Board shall determine whether public convenience and necessity require such transport, and in so determining the Board may take into consideration, inter alia, -

(a) any objection to the application which may be made by any person or persons who are already providing transport facilities, whether by rail, water or air, on the routes or between the places which the applicant intends to serve on the ground that suitable facilities are or, if the license were issued, would be in excess of requirements, or on the ground that any of the conditions of any other transport licence held by the applicant have not been complied with;

- (b) whether or not the issue of such licence would tend to develop the complementary rather than the competitive functions of the different forms of transport, if any, involved in such objections;
- (c) the general effect on other transport services and any public interest which may be affected by the issue of such licence;
- (d) the quality and permanence of the service to be offered by the applicant and his financial responsibility, including adequate provision for the protection of passengers, shippers and the general public by means of insurance."

Other variations in provincial practice are apparent from an examination of Exhibit No.8. Fees for various classes of vehicles are widely different as is the method of licensing.

In some provinces, such as Ontario, an operating permit covers a route, with the operator entitled to license as many vehicles as he chooses, while in others, such as British Columbia, the operating permit is for the vehicle only, and when it is desired to license additional units application must be made to the regulatory authority.

THE CHAIRMAN: What is the application of this Act?

A. I think, my lord, if you jump down to "(b)" and "(c)", "(b)" reads:

"Whether or not the issue of such license would tend to develop the complementary rather than the competitive functions of the different forms of transport, if any, involved in such objections;"

Q. What license does the Act contemplate here as being granted by the Board in this case?

A. Under the Transport Act, as I recall the provisions of it, sir, it deals with the regulation and control of inland waterway traffic and contains in there the provision for agreed charges on the railway. I am not clear at the moment whether air is included in that.

MR. SINCLAIR: Air is taken out.

MR. O'DONNELL: Air is separately dealt with.

THE WITNESS: I think it includes those two points.

Referring to the last paragraph on page 18, I should like to point out to the Commission the difference in that form of regulation. In the one instance such as in the Province of Ontario a man appears before the regulatory board and asks for a license say, between A and B, and if he is granted that license he may at the time of his application only have need for one vehicle to handle all of the traffic offering him then but he is quite free subsequently to expand his fleet to a thousand vehicles if he so desires.

In the Province of British Columbia the same man appears before the regulatory board and he asks for a license between C and D. He must declare to the Board the volume of the traffic for which he is applying and they will grant him one or two or three truck licenses, whichever in their opinion is necessary and each time he wishes to put on another vehicle, he must come back to the Board for authority to put on that additional unit.

Here the Association desires to direct attention to the higher basis of fees for common and contract trucks compared to private trucks in the Provinces of Ontario, Saskatchewan and British Columbia. Basically there is no difference between the privately owned vehicle and the common or contract carrier in respect to use of the highways. Yet, regulation of the common carrier has all

too frequently centred around charging it a higher rate for use of the highways than is charged the private carrier. It is, of course, quite separate and distinct from any question of business taxes as opposed to payments for the use of the roads.

A scientifically developed system of allocating costs would make such discrimination unnecessary. Indeed, this discrimination had its origin in the fact that while motor vehicles in general were not paying their share of highway costs there was no justification for extending this to include the common carrier which operated in competition with the railways.

From there on sir, I will try and give you a brief summary and point out what we consider to be the important points as we go along.

The solution adopted by some, though not all, governing authorities was to assess against them an arbitrary rate which is higher than that of the private carriers. Lacking information on highway costs, and an accepted policy of cost allocation, this solution is manifestly unfair to both the common carrier and its railway competitor. The private carrier is receiving an immediate subsidy with respect to both railway and common carrier motor vehicle, and an arbitrary factor was introduced into competition between them. This subsidy can and should be removed.

Common and contract carrier regulation covers operating rights, schedules and rates. At present there is no uniformity throughout Canada. In all provinces fares on buses are subject to control, but truck rates in Newfoundland, Prince Edward Island, Nova Scotia, Quebec, Ontario and Alberta are whatever the trucker wishes to charge. In Quebec recently, some attempt has

been made to central rates but as yet it is not very effective. As between common and contract carriers very obvious discrimination and anomalies exist.

In the preceding paragraph we deal with the difference in fees between the common and the private highway operator and some forms of regulation and then we come to a point which we consider very necessary and very important in our brief, and that is at the top of page 20.

THE CHAIRMAN: When you say "all private trucks", do you mean those that transport only the owners' own goods?

A. Excluding farmers' vehicles handling their own produce.

(The Chairman's remarks continued on page 9183 at conclusion of brief)

This Association directs attention in particular to the absence of control over interprovincial and international highway services. At present those provinces which have regulations governing intra-provincial highway operations can only control that portion of interprovincial or international highway operations which are performed within their borders. They cannot control the through movement either by themselves or in cooperation with the neighboring province because actual jurisdiction of such movements is the prerogative of the Dominion. In 1937 the then Minister of Transport introduced a Bill in the Canadian Senate designed, *inter alia*, to place control of interprovincial and international highway operations under the jurisdiction of the Board of Transport Commissioners. As is not unusual with proposals to depart from existing practices, there was considerable misconception in the minds of provincial authorities and highway interests as to the real purpose of this measure. A great deal of opposition developed from these sources and as a result the provisions of the Bill relating to highway transport were eliminated.

One of the main objections of some of the Provinces and of highway interest to regulation by the Dominion was that the Bill as submitted provided for a license fee and that such power could be used to deprive the Provinces of the revenue from licensing highway vehicles. Such action was regarded by highway carriers as an attempt to increase their financial burden through added taxation. The Minister stated that it was not the intention of the Dominion to use its powers under the Bill as a source of revenue and that the fees contemplated were merely nominal registration fees.

Another more general objection on the part of

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the Provinces had to do with the question as to whether the definition of interprovincial and foreign commerce, so far as it might include a purely intra-provincial movement as part of a through movement, was constitutional. For example, in regard to a movement from Montreal to London handled by one trucker Montreal to Toronto and there transferred to a second trucker for movement Toronto to London, the Provinces questioned the right of the Dominion to declare that the movement between Toronto and London was in interprovincial trade and to regulate the activities of the Toronto to London trucker. Possibly some of the objection was induced by an interpretation that changes of ownership and warehousing en route would not avoid the consequence that a prior portion of the total movement would still be subject to Dominion regulation. Any such complication could be avoided by making it clear that the movement to be covered should be a through and substantially continuous one.

No difficulty has been experienced in this respect in the United States where similar legislation has been in force since 1935. The importance of covering the entire movement of the goods rather than only the movement of the vehicle is that otherwise evasions of the legislation would be very common and exceptionally easy. Switching of trailers or actual transshipment of the load itself could be arranged at Provincial or international borders, and the consequence of limiting the regulation to the crossing of the borders would be fatal to the effectiveness of the measure.

Another objection was to the effect that the volume of interprovincial and international traffic was relatively unimportant and that the cure might be more burdensome than the disease. It may be said that the type of traffic most in need of regulation from the point

of view of national interest is long haul traffic which is to a large extent interprovincial and international and that the time to establish adequate machinery for regulation is during the infancy of the problem. There is little doubt that with an expanding road construction and improvement programme, particularly the proposed Trans-Canada Highway, the percentage of interprovincial and international traffic will increase. In fact it is of sizeable proportions today.

The question of control of highway operations cannot be resolved entirely in terms of motor transport. It is directly related to the overall problem of the regulation of all forms of transportation. It is manifestly unfair that the railways should be compelled in the national interest to move basic commodities at low rates, handle every type of shipment offered for movement, maintain unprofitable services if so decreed, give the same rates under the same conditions to any and all shippers, build and maintain its own right-of-way and conform to established regulations as to operations, and at the same time compete with a method of freight transport with no obligations other than to itself, which may pick and choose the most profitable traffic and disregard any other, operate only in good weather, charge any rate to any person, discontinue unprofitable operations when so desired and which operates on a highway largely provided at public expense.

This Association holds that no complete and adequate national transportation policy can be established which does not include uniform control of highway operations, rates, schedules, conditions of service and adequate payment for the use of highways, in the national rather than local or provincial interest.

The principle of uniform control of highway

transport is not new. It has existed in Great Britain since 1933, and the United States, Australia, New Zealand, Union of South Africa, Northern Ireland and Ireland have adopted such a programme. A brief resume of the situation in some of these countries is appended as Exhibit No. 20.

It is recognized, however, that uniform control of highway transport in Canada may only be accomplished by agreement between the Provinces and the Dominion. This Association therefore recommends that action be taken to bring about discussions between the Provinces and the Dominion with a view to establishing a national transportation policy which will secure the optimum advantage from each type of transport. This would involve an agreement by the Provinces that their regulatory commissions should act in accordance with an agreed national policy and that Provinces should enact measures uniform in principle to that end.

The Association submits that your Commission should recommend the establishment by the Dominion of an administrative tribunal with power to license and regulate interprovincial and international highway transport. Provincial boards or commissions have and should continue to have similar powers in respect of intra-provincial highway transport.

This Association further submits that because of the need for developing a uniform application of the principles under which highway operations should be licensed, an appeal should lie to a tribunal from decisions of both the Provincial and Dominion regulatory bodies. The appeal tribunal should consist of a panel of members appointed from among the members of the Dominion and Provincial regulatory bodies with the intention that in any particular case the tribunal

hearing an appeal would consist of adequate representatives of the Provinces within which the applicant for license proposes to operate.

In making this recommendation the Association desires to make it quite clear that its submission does not involve interference with the right of the Provinces to stipulate the conditions under which their highways may be used or to interfere with their right to levy and collect taxes and fees for the use of such highways and for any other purpose within provincial jurisdiction.

This Association directs particular attention to an important element of the rail-highway competitive problem which up to now has not been dealt with in Provincial highway legislation. Reference is made to the increasing volume of traffic moving over the highways in privately owned trucks, and which now forms a large percentage of the total volume of highway freight transportation. The activities of private carriers are competitive with both the railways and the common carrier highway operators, and the problem of regulation and control of this type of transport by some form of legislation is one which should receive attention in any adequate national transportation policy. Failure to regulate the flow of private highway transport will destroy in large measure the benefits that should accrue from regulation and control of "for-hire" carriers. In this respect the regulations in the Australian States of New South Wales and Tasmania are of interest. There, all highway services are strictly controlled and the regulations have the support of the railways and the Commercial Motor Users' Association alike.

OVERALL COST OF THE HIGHWAY SYSTEM

The calculation of the capital and operating costs of providing the public right-of-way used by motor

vehicles is the first step towards a realistic assessment of the problem. It is idle to discuss the costs of highways and the allocation of costs between direct users and the general public until these costs are developed. There is no authentic, inclusive statement of highway costs.

As your Commission is well aware, the road building authority in Canada is in the provinces and as a result, each province builds highways as it thinks proper. Each must find the money or credit, as the case may be, and each has the right to tax to raise the necessary funds. While it is not possible to determine with any degree of accuracy the costs of Canadian highways, this Association estimates that to provide the existing highways a total investment of approximately \$1,500,000,000 has been necessary. Of this total something over 50% was raised by floating bonds because approximately \$822,000,000 of funded highway debt was still outstanding in 1944 when this figure was last reported. In an effort to retire the outstanding highway debt some of the provinces in 1933 commenced reporting sinking fund payments but these for all of Canada only averaged something under 4 millions a year between 1933 and 1944. The position of the funded highway debt, together with interest and sinking fund payments for the years 1930 to 1944 inclusive is shown on Exhibit No. 9. On the basis of the sinking fund payment being set aside (less than 5 millions annually) and accrued interest charges (over 34 millions in 1944) it is apparent that the only result from this method of financing can be an annual increase in perpetuity in the funded highway debt outstanding, even though no additional capital expenditures are made.

In addition to the provision of capital moneys

for highway construction and improvement it is of course necessary to provide for annual maintenance and administration expenditures. The Dominion Bureau of Statistics has been collecting data on highway expenditures and revenues since 1927 and the published reports, while admittedly incomplete, provide an indication of the magnitude of the amounts involved and show the gaps in the information. The available data from these reports commencing with the year 1930 are shown in Exhibits as follows:

Exhibit No. 10 - "Revenues from Vehicle Registrations, Gasoline Taxes, Etc. - Canada" for years 1930 to 1947 inclusive.

Exhibit No. 11 - "Revenues from Vehicle Registrations, Gasoline Taxes, Etc." by provinces for years 1930 to 1947 inclusive.

Exhibit No. 12 - "Expenditures on Rural Highways - Canada" for years 1930 to 1946 inclusive.

Exhibit No. 13 - "Expenditures on Rural Highways by Provinces" for years 1930 to 1946 inclusive.

Exhibit No. 14 - "Expenditures on Rural Roads and Urban Streets in Canada and Revenues from Motor Vehicles" for the years 1930 to 1946 inclusive.

Exhibit No. 14 indicates that during the years 1930 to 1946, known expenditures for construction and maintenance of rural roads and urban streets exceeded highway revenues by \$351,000,000. No calculation of the debt responsibilities incurred by the municipalities on highway account is available from official sources.

In 1938, an exhaustive survey of costs in the Province of Ontario was made by Messrs. Breed, Older and Downs as a basis for their "Report on Annual Highway Costs, Province of Ontario", made for this Association

and eventually transmitted to the Royal Commission on Transportation (Chevrier). The method followed was to take actual annual expenditures for construction and maintenance of rural roads, and partly estimated expenditures for urban streets, beginning in 1931; presume a service life of highway elements of 25 years, with no allowance for salvage value, allow interest and taxes on unamortized construction costs and thereby to arrive at an annual cost. Their findings showed that, for this one province, the cumulative annual cost exceeded revenues from direct users by \$326,000,000 during the period 1919 to 1937.

It should not be impossible to produce equivalent studies for the other provinces and it is suggested that a recommendation to this effect could appropriately come from your Commission. If, as appears likely, the experience of other provinces should prove similar to that of Ontario, (although on a smaller scale) the total subsidy to highway transportation in Canada is indeed a very large one.

A rough approximation of this subsidy has been arrived at on the basis of the method used in the Breed Report. The expenditures on rural roads for the years 1919 to 1926 inclusive are based upon aggregated figures for these years reported in the 1937 issue of "The Highway and Motor Vehicle in Canada" prepared by the Dominion Bureau of Statistics and the apportionment to each year on an equal basis purely arbitrary, lacking better information. The details are given on Exhibit No. 15. They show that for the years 1919 to 1946 inclusive the estimated cumulative annual cost of the public right-of-way exceeded revenues from direct users by \$528,000,000. It should be noted however that this figure does not include urban street expenditures for

the years 1919 to 1934 inclusive, as such expenditures are not available. It is, therefore, an underestimate to at least this extent.

THE ALLOCATION OF THE COST
OF THE HIGHWAY SYSTEM

There are two problems:

(a) The division of highway costs as between direct users (motor vehicles) and the general public; (b) The allocation of the direct users' proportion between the various types of users.

(a) Division of Highway Costs as between
Direct Users (motor vehicles) and the
General Public

There is no precise method by which a proper division of highway costs between direct users and the general public can be arrived at. Any assessment of the value that should be put on "social use" - a payment from general funds since highways are a public work for the general benefit of all - is bound to be arbitrary and to rest purely on the interpretation of the will of the majority arrived at by the legislators. Indeed, if the highway right-of-way had not preceded the motor vehicle, it is doubtful whether the question of "social use" element would have been raised at all when the dirt roads of the last century had to be rebuilt for motor vehicles.

Electric power is a work for the general benefit of all, yet, after early experiments with flat rates, it was quickly established that direct users should pay the entire costs and that payments should be in proportion to units of power employed. Later, the theory was advanced that users of electric power should subsidize inland waterway transportation, in projects for the development of the St. Lawrence Waterways. In Quebec, the hydro system, recently acquired from private

owners, made a "contribution" of \$18,000,000 to support the provincial program of hospital grants.

Of equal significance are recent trends in respect of public use of water. At the outset water was a work for the general benefit of all and flat rates based on ability to pay rather than on quantities consumed were charged. Unequal payment led not only to unequal but to wasteful consumption and increased the cost of providing the service. The solution was to meter water, as many municipalities are now doing.

In the case of railways; after recognition of their social value in the form of construction subsidies, they were expected to become self-supporting and to meet their entire costs, plus contributions to government through taxation, from the amounts charged direct users of railway transportation service. It is difficult to see in what respect the modern highway system differs. Indeed, when competitive aspects are taken into consideration, and the effort is made to establish a base of economic costs, a condition whereby highway transport received a continuous subsidy and railway transport an initial subsidy only, is indefensible.

In recent years there has been a tendency for direct users of highways to bear a higher proportion of costs than hitherto. This is in accord both with the modern judgment as to what constitutes a "fair" or "reasonable" or "equitable" division of costs as between direct users and the general public, and with practical expediency.

In the days when Adam Smith could list the provision of highways as one of the very limited group of state functions to be paid for from general taxation (with the canny proviso that there was something to be said for toll roads) it was, perhaps, appropriate to

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regard the adjacent property owner as the most important direct user. Moreover, no convenient measure of "amount of use" such as that provided by gasoline consumption or gross ton mileages, existed.

Under present day conditions, the situation has changed in several fundamental respects:

(1) Adjacent property owners are no longer the most important direct users - either of rural highways or of city streets, many of which have become trunk highways.

(2) Convenient measures exist or can be created for assessment of costs against users, whether the standard is to be wear and tear, space occupied, tons carried, mileage travelled, or a combination of all of them.

(3) The extension of the activities of government makes it imperative that some government enterprises must be at least self-supporting, if not actually required to provide revenue for those that cannot, for social reasons, be made so.

Several reputable authorities have attempted to establish a working basis for the apportionment of highway costs between direct users and the general public. A summary of their conclusions, and of the arguments leading to the conclusion, is given in Exhibit No. 16. It will be noted that, in almost all cases, there is agreement that:

- (a) the element of "social use" - or a value to the public at large as well as to direct users - does exist and deserves recognition;
- (b) the division between direct users and the general public must be arrived at on some arbitrary basis;

(c) direct users were paying very much less than their proportionate share, in the division obtaining in the past.

Although the recommendations of these authorities vary in detail, most of them are of the opinion that the excess of expenditures over revenues in the past and the continuing commitment of the taxpayer on the service of funded debt, is adequate allowance for the factor of social use, and that, in the future, the entire cost of the construction and maintenance of the public right-of-way should be a charge against the motor vehicle. The only difference of opinion seems to be as to the amounts, if any, that the direct users should pay, from the cut-off date, for the right-of-way then existing which represents so substantial a capital investment.

The division, as it has been in Canada up to now, was indicated in preceding paragraphs. On the basis of known though incomplete expenditures, as given in Exhibit No. 14, it would appear that direct users contributed about 77% of the cost of providing the public right-of-way, excluding interest and amortization of highway debt, provincial and municipal, for the period under review. On the basis given in Exhibit No. 15, which includes interest, amortization charges and taxes, the contribution was about 72.5%.

In more recent years, in so far as construction and maintenance only are concerned, the proportion paid by direct users has increased. In 1939 it was 70%. During the war years of 1942, 1943 and 1944 when construction expenditures were less than half the pre-war normal, revenues from direct users actually exceeded expenditures on construction and maintenance by amounts ranging from 2% in 1944 to 14% in 1942. In effect, this means that motor vehicular traffic in Canada in these

three years appears to have operated on a basis slightly better than that recommended by the authorities quoted in Exhibit No. 16.

"In 1942 every province in Canada, except Quebec and British Columbia, demonstrated that annual construction, maintenance, and administration expenditures could be more than met by revenues from direct users. In 1946 seven of them were no longer in this position," as the following compilation, (which is based on the official statistics given in Exhibit No. 14) shows:

Proportion of Annual Highway Expenditures -
Rural Roads and Urban Streets
Met by Revenues from Motor Vehicles

	<u>1942</u>	<u>1946</u>
Prince Edward Island	109.7	43.3
Nova Scotia	119.5	60.5
New Brunswick	112.3	35.9
Quebec	81.7	57.0
Ontario	133.0	76.7
Manitoba	222.5	101.2
Saskatchewan	223.2	116.5
Alberta	175.6	65.9
British Columbia	<u>69.3</u>	<u>60.0</u>
Canada	114.0	67.1

Although complete data for the years 1947 and 1948 are not yet available, preliminary reports made by some of the provinces indicate that the proportion has declined still further.

This, it is submitted, is an extremely serious situation and one that should not, under any circumstances, be permitted to continue, unless it is conceded that direct users of highway transportation are not to be required to meet the costs of providing their right-of-way.

The foregoing discussion has been based on actual annual and cumulative construction and maintenance costs only. The data presented in Exhibit No. 15 go beyond this. Although they are a rough approximation, since they are based on an estimated division for the earlier years, they are useful as an illustration of method - of probable results had a rational cost basis that would take account of highway life and appropriate provision for amortization been followed in the past. With due allowance for the reservations that must surround estimated figures, it is interesting to note that the estimated annual cost of highways in 1946, on a basis that would allocate maintenance expenditures to current account, and provide for interest and amortization of construction expenditures, assuming highway life of 25 years, amounted to \$155,000,000. Revenues were \$113,500,000. In other words, had revenues from motor vehicles been 36% greater in 1946 they would have equalled annual highway costs.

In the Breed Report the year 1919 was taken as the beginning, partly because from that time forward the motor vehicle was the governing factor in highway construction, and partly because it would have been unrealistic to attempt cost allocations back to the beginning of motor vehicle development or to set a value on the public right-of-way that the motor vehicle inherited from the past. Expenditures prior to December 31st, 1918, and the accumulated deficit for the years 1919 to 1936 - the amount by which revenues from direct users failed to meet annual highway costs - were "assigned in full to the general public and constitute its full payment for social-necessity use of roads. From 1936 on, motor vehicle owners should assume full responsibility for all annual costs of rural roads and urban

streets." This was qualified somewhat by the statement that while the 1919-1936 deficit "was incurred wholly on account of facilities required for the motor vehicle, and consequently it was and still is their obligation to pay this debt, but since it has been permitted to accumulate to such an extensive amount, repayment would now impose a charge against the motor vehicle owner that is practically prohibitive."

The estimated deficit for Canada as a whole for the longer period 1919-1946, as developed in Exhibit No.15, and amounting to \$528,000,000 would, of course, be even more prohibitive. If not charged to direct users, and it quite obviously could not be, it remains as a most substantial contribution from the general public. It may be regarded partly as subsidy to motor vehicles and partly as further payment for "social-necessity" use.

Since the war, direct users of rail transportation, who are required to pay the costs of the services they enjoy, have had their charges increased by an average of about 22% or 23% through the general increase in freight rates. This is already proving insufficient to meet the increased post-war costs of rail transportation. Increased charges on direct users of highways commensurate with increased expenditures for construction and maintenance, present and anticipated, should not be out of order. In total, an apportionment of costs which would ignore the enormous past subsidies to provide the motor vehicle with its right-of-way (which are a continuing commitment of the general public in interest and amortization payments) and which would require the motor vehicle to meet annual costs only, would seem to be over-generous to say the least.

In the opinion of this Association it would be

desirable, in fairness to competing forms of transportation, to make due allowance for the cost of providing the existing highway system, which is a capital asset available for use by the present operators of motor vehicles. It would, it is felt, be appropriate to include in current charges to operators due provision for amortization of this capital asset, and improper to make a fresh start in any given future year and work out a program that would involve payments from direct users adequate to cover future maintenance and construction costs only. The latter course would create a fictitiously easy financial condition at first, only to be followed by the need for drastic increases in charges on highway users later, as the existing capital in the form of highways had to be replaced.

For this reason, it would be quite proper to follow the "Breed principle", that is to ascertain what the actual construction and maintenance expenditures were, by years since 1919; to calculate the interest and amortization payments on construction that should have been accrued during the years from 1919 to 1949; to regard these amounts as an error of the past, and to hold present users responsible only for the unamortized portion of 1919-1949 construction expenditures that would be a charge against years subsequent to 1949 under this method of accrual.

With this background, this Association suggests that your Commission, as has been done by other Commissions and other authorities, should make a recommendation concerning the division of highway costs between direct and indirect users that is appropriate to Canada and that will serve as the basis for the policy of the future.

This recommendation should presumably cover:

- (a) the appropriate payment to be made by present users of today for the highway system as it exists today;
- (b) the method whereby the program of future construction and maintenance would be related to the charges levied against direct users.

It is urged that your Commission may properly point out that the policy of subsidies to highway transportation imposes a heavy burden on provincial and municipal taxing authorities and also introduces grave difficulties into the whole national transportation system by enabling the highway vehicle to expand its uneconomic competition with railways. It is submitted that your Commission should recommend that the provincial governments be urged to seek the establishment of a uniform system, under which there would be set up in each province an authority charged with raising from highway users the revenue necessary to provide all the funds required for highway construction and maintenance.

(b) Allocation of Direct Users Proportion
Between Various Types of Users

There is no uniformity of method or result in Canada at the present time in regard to this allocation. This can readily be seen from the summary of the bases now in use in the nine provinces, which is given in Exhibit No. 7. A more detailed summary is given on pages 34 to 51 of "Facts and Figures of the Automobile Industry" 1948, published by the Canadian Automobile Chamber of Commerce.

One would not expect to find that the total amounts paid for road use by a vehicle of a particular type would be uniform from province to province since provincial expenditures vary, as do the numbers of vehicles over

which these expenditures are spread. One would, however, expect to find a degree of correlation between the ratios that payments for a truck licensed for a gross weight of 5,000 lbs. bear to payments for a truck licensed for a gross weight of 30,000 lbs. as between provinces. But this is not so. For example, in Manitoba the 30,000 lb. truck, either privately operated or operated as a common carrier, pays 13 times the license fee paid by a 5,000 lb. truck, whereas in Saskatchewan the 30,000 lb. truck, if privately operated, pays only 4 times the license fee paid by the 5,000 lb. truck privately operated, and if operated as a common carrier, 16 times. Again, while Saskatchewan levies a license fee of \$25.00 on the 5,000 lb. private truck, Manitoba charges \$30.00 and Alberta \$60.00. For convenient reference these rates are given for all provinces in Exhibit No. 17.

The present licensing system does not reflect a scientific approach to the problem. It has been purely a matter of growth with arbitrary judgments determining the amounts to be paid by vehicles of different types. In economic terms, it means that an important section of the operating costs of motor vehicles are established on the basis of "opinion" as to what is right and proper rather than on an actual basis of costs. Opinion varies both from authority to authority and from time to time.

During the last 20 years a considerable amount of research on highway costs has been carried out, both by government bodies and independent authorities. The factors which affect the relative costs of providing a highway for use by 10-ton trucks and 1-ton passenger vehicles are known and understood, as are the variations in wear and tear through use by different vehicles. Even the basic postulates of 20 years ago have changed. In

1931, for example, the Commissioner of Public Roads of the United States, Thomas H. MacDonald, was able to say that the "roads are more destroyed really by climatic and soil conditions than they are by any use that is made of them." In February, 1949, in an address to the American Road Builders' Association, he reported a very different state of affairs:

"This statement was true 18 years ago when it was made. The loads we were then carrying on the highways were very infrequently heavy enough to overtax their structural capacity.

In the intervening years, there have been great changes in the total number of trucks on the highways, in the proportion of them with heavy loads and over-loads, and in the observed effect on highways

During the early thirties a gradual increase in damage to pavements was observed. Prior to the war, damage had reached alarming proportions. With the marked increase in heavy loads since the end of the war, the damage has become even more alarming.

Damage has occurred on all types of high-type pavements. Bituminous pavements are made rough and rutted. Excessive pressures shove and knead the surface out of shape. Concrete pavements are subjected to pumping at joint, followed by rapid deterioration of the whole surface.

There is conclusive evidence that this damage is caused by heavy wheel loads."

In view of its importance, the full text of Mr. MacDonald's speech has been reproduced as Exhibit No. 18. The obvious inference from it is that very considerable proportions of the amounts expended on highway construction and maintenance during the last twenty

years are traceable to use of the highways by vehicles whose gross weights or axle weights exceed the limits which they can stand, and by failure to observe seasonal limitations.

Many scientific studies on allocation of costs as between different types of vehicles have been made. They are developed from four basic factors: speed, distance, weight, and volume. The speed at which a vehicle is operated bears some relationship to costs. A 10-ton truck operated at 10 miles per hour produces a very different degree of wear and tear on a road from that which obtains when the same vehicle is operated at 50 miles per hour. The relationship to distance travelled is self-evident. The weight of the vehicle will be reflected in the standard of construction necessary to support it, and the volume of the vehicle in the width of the highway, length of passing lane, height of subway, etc.

The methods of cost allocation recommended in several of the modern studies are outlined in summary form in Exhibit No. 19. These studies are representative of the scientific approaches to the problem that have been made elsewhere, and of the type of research material on the subject of cost allocation that is available. These studies have been chosen among other reasons because of their discussions of the various methods that have been recommended from time to time as well as for the specific method they advocate. Although none of these may be immediately applicable to the Canadian situation, they at least provide a basis for investigation. For example, in Illinois the very heavy volume of road traffic may make it appropriate to think in terms of standards of construction that are very much higher than would be

practical in Canada. In this country, where there is less money to cover greater distances, high standards and the vehicles that go with them are a luxury.

This Association accordingly urges that your Commission should recommend that an exhaustive study of highway costs and their allocation among motor vehicles be undertaken to determine the fair and reasonable proportion that should be borne by the various classes of such highway users. It is submitted that by this means the private motorist and the taxpayers would be relieved of the burden of providing facilities for commercial highway transport both public and private. This Association reiterates the view that there should be no distinction between common carrier, contract carrier and private highway transport in payment for the use of the highway system.

In concluding this submission the Association again emphasizes the seriousness of the problem of competitive highway transport which confronts the railways. This Association does not take the position that the recommendations herein contained will alone solve the competitive problems of the railways but does state most emphatically that no national transportation policy could be considered as adequate which does not include these proposals as essential elements. The Association has no doubt that a continuance of the present situation may well lead to a breakdown of the entire transportation system in Canada. There is no greater need facing Canada than to find a solution of this problem. Unless and until a sound solution is found the real cost of transportation will be higher than necessary and the ability of the railways to provide the essential transportation service will be seriously jeopardized.

(Page 9183 follows)

Q. Excluding those farmers handling their own produce?

A. From private trucking.

Q. What would you call them, then?

A. "Farm truck", is generally accepted, I think.

Q. Then what do you mean by "private"?

A. The trucking of manufacturers, producers, and so on, where they handle their own goods. Our position is that in handling their own goods, while they make no direct charge, the cost of that transportation must finally be included in the price of the article, and, as such, the private trucker as we define him, is competing not only with the railway, but also with the common carrier truck operator, and we think that any adequate national transportation policy must give consideration to his activities, as well as to others.

Q. They would be made to contribute more, is that it?

A. In one instance, yes, sir, to pay his fair share of the highway costs; and in the other, to conform to whatever regulations the body we propose may ultimately decide is in the national interest.

Q. What you say now, does not apply to farm transportation by the farmer himself?

A. No, sir, we exclude that.

The brief goes on to discuss the situation that occurred in 1927, when the then Minister of Transport introduced a bill in the Canadian Senate, designed to place within federal jurisdiction, the control of intra-provincial and international highway transport.

COMMISSIONER INNIS: You mean 1937?

A. Yes, 1937.

THE CHAIRMAN: Did he have any trouble with this?

A. Yes, he had, my lord, and the trouble he had is set out fairly fully, I think.

Q. What was the result of the trouble?

A. The result was that the clause was deleted from the bill, before its final passage, and as I recall it, now, that is the Transport Act that you have in front of you. It was included as a portion of that.

MR. O'DONNELL: Don't you want to make some distinction between the movement of goods and movement of vehicles that you might point out?

A. Yes, I would like to make that point very clearly, that in talking of control of intraprovincial and international traffic, we are talking of the control of the movement of goods, and not necessarily in relation to the movement of the vehicles. That is the same practice as is followed in the United States by the Interstate Commerce Commission. They take the actual movement of the goods, not the movement of the vehicle as such, alone.

THE CHAIRMAN: Have you anything to say in particular now, about the movement of the goods?

A. We say, we recommend, in the brief, that for interprovincial goods it be movement of the traffic.

Q. Of the goods?

A. Of the goods.

Q. As distinguished from the movement of the vehicle?

A. Correct, sir.

Referring now to the paragraph on page 22, starting at "The principle of uniform control", we go on to say that the principle of uniform control of transport is not new, that it has existed in different countries and

it is recognized, however, that uniform control of highway transport in Canada may be accomplished only by agreement between the provinces and the Dominion.

1. Pardon me, - you say this limited control of highway transport has existed in Great Britain since 1933, but that was easy because there is only one Parliament there. Then you say that the United States has adopted such a programme. Is that altogether accurate?

A. For highway transport?

2. Yes.

A. Uniform control, in the sense of federal control of interprovincial highway operations, sir.

3. But you are in the States now?

A. I am in the States.

Q. You mean, inter-state?

A. I am sorry, inter-state, and international within the jurisdiction of the United States government as such. Then there is State control in each of the forty-eight states.

Q. But, uniform control?

A. Oh no.

Q. Because, you see, you say that the principle of uniform control is not new, and then you give as an example the United States.

A. That is perhaps loose language. What I had intended to convey there is the principle of inter-State or inter-provincial control being vested in a federal jurisdiction

Intra-state or intra-provincial vested in the State or provincial jurisdiction is not new.

MR. O'DONNELL: In Exhibit #121, Exhibit 20, the pages following give a resume of the regulations as you have found them to be in these various places?

A. That is correct, and I might add that in those countries too, there is of course federal control of the railway and other transportation media.

THE CHAIRMAN: I presume in the United States, so far as intra-state licensing is concerned, the regulations may vary from state to state?

A. They do, my lord. As a matter of fact, they have been trying now for some time to get a degree of uniformity, but they do vary from state to state.

MR. O'DONNELL: In the last two page, my lord, of Exhibit #121, you will find a resume of the United States regulations.

MR. SINCLAIR: It might be of interest to put on the record that when they talk about these other countries, with the exception of the United States, the governments are in the railway business, Australia, New Zealand and South Africa.

MR. FRAWLEY: That makes it less of a parallel, doesn't it.

THE WITNESS: This Association therefore recommends that action be taken to bring about discussions between the provinces and the Dominion with a view to establishing a national transportation policy which will secure the optimum advantage from each type of transport. This would involve an agreement by the provinces that their regulatory commissions should act in accordance with an agreed national policy and that provinces should enact measures uniform in principle to that end.

The Association submits that your Commission should recommend the establishment by the Dominion of an administrative tribunal with power to license and regulate interprovincial and international highway transport. Provincial boards or commissions have and should continue

to have similar powers in respect of intra-provincial highway transport.

This Association further submits that because of the need for developing a uniform application of the principles under which highway operations should be licensed, an appeal should lie to a tribunal from decisions of both the Provincial and Dominion regulatory bodies.

THE CHAIRMAN: What kind of tribunal would that be in the case of the provincial bodies? Would it be a provincial tribunal?

A. We had in mind, my lord, a tribunal composed of members of each of the provinces, and of the Dominion.

Q. Well, that is different. You would have an appeal to them from something done within a province, is that it?

A. Yes.

Q. Concerning business from one point in the province, to another point in the province?

A. Yes, my lord.

Q. You would have an appeal from the decision of the provincial board to this superior body?

A. Yes, my lord.

Q. The point is there, the Dominion, and not all the provinces?

A. Yes, my lord.

The appeal tribunal should consist of a panel of members appointed from among the members of the Dominion and Provincial regulatory bodies with the intention that in any particular case the tribunal hearing an appeal would consist of adequate representatives of the Provinces within which the applicant for licence proposes to operate.

In making this recommendation the Association desires to make it quite clear that its submission does not involve interference with the right of the Provinces to stipulate the conditions under which their highways may be used or to interfere with their right to levy and collect taxes and fees for the use of such highways and for any other purpose within provincial jurisdiction.

THE CHAIRMAN: Do you think there would be much left for the over-riding tribunal?

A. I don't know that I follow that.

Q. Would it conflict at all with the rights of the province to stipulate the conditions under which their highways may be used, or to interfere with their rights to levy and collect taxes and fees for the use of the highways, or for any other purpose within provincial jurisdiction?

A. They would retain, sir, all the things that they have now.

Q. What would go up to this appellant tribunal then?
A. Only a decision of a regulatory board in the province that was not satisfactory either to the applicant or those opposing him?

Q. That is the application for a license only

A. Yes, my lord, presented initially to the provincial Commission.

Q. That is all that would go up to the tribunal?

A. That would be all.

Q. Either granting or refusing?

A. That is right.

COMMISSIONER ANGUS: Would it be an appeal, so to speak, on a matter of law, or because of the way in which

a discretionary power was used?

A. I think as to discretionary power, there what we contemplate is it would be an appeal based upon the granting or refusing of an application being in violation with the pre-determined national transportation policy.

COMMISSIONER ANGUS: The policy being laid down in an agreement?

A. Yes.

THE CHAIRMAN: Pardon me again, even if I appear insistent. Insofar as this board is concerned, would it go on the majority basis in its rulings? Supposing there is an appeal to that tribunal from some action taken by the regulatory body in New Brunswick, and the board, as you say, had representatives from New Brunswick?

A. Correct, sir.

Q. Nevertheless, would the majority of that board overrule the decision of the New Brunswick board, even if the New Brunswick representatives on the appeals tribunal did not agree with the ruling?

A. I would think so, my lord

Q. In that case then the order would go back to the New Brunswick board to issue a licence?

A. Or refuse, as the case may be, yes, sir.

Q. Yes, I see.

MR. FRAWLEY: Now, Mr. Chairman, the balance of this brief deals with what might be called the question of the allocation of the highway costs or the alleged subsidization of truck transport in the provinces, and I am asking that it be not proceeded with and that it be stricken out: on the basis of a letter, a copy of which I have, written by Mr. Covert to Mr. Hume, counsel for the Truckers' Association. On 8th November Mr. Hume

wrote Mr. Covert calling attention to the fact that a third of the brief (which is roughly, I take it, from here to the end) dealt with the question of highway costs and the allocation thereof. Mr. Covert wrote back to Mr. Hume on 10th November as follows:-

"Dear Mr. Hume,

I acknowledge receipt of your letter of the 8th instant, and have discussed the matter with the Commission. I am instructed to advise you that it is not the intention of the Commission to express any opinion or make any finding as to whether or not motor vehicles are now paying their proper share of highway costs. This would not preclude a recommendation that they should pay their proper share. A copy of this letter is being delivered to the solicitors for the Railway Association of Canada."

I was given a copy of that letter within a day or so after it was received. In fact, my friend, Mr. Covert was good enough to let me have a copy of it perhaps the very day it was written. Thereupon I paid no attention, as to any cross-examination I might make of Mr. Gaffney leading to the question of whether or not in Alberta there is highway subsidization of trucks. I simply do it on that ground. If it must go in ----

THE CHAIRMAN: That is ascertainment of the fact, whether or not in Alberta trucking is subsidized.

MR. FRAWLEY: Yes, sirs. It is devoted to the allegation, I take it, that there is an unfair situation, that the trucks are travelling on subsidized highways and that sort of thing.

We challenge that, of course, so far as Alberta is

concerned. I say that is not the fact at all, and I do not propose to address myself to it at all in view of the fact that Mr. Covert says the Commission is not going to go into the question or make a finding on the question of whether or not motor vehicles are now paying their proper share of highway costs. That is the neat point involved in the balance of the brief, sir, and I say that in view of that letter it should not be gone into and therefore it should be stricken out.

MR. O'DONNELL: I don't think there is a neat point except for the last thing in the paragraph which says : "This does not preclude the Commission from making a recommendation that it should pay a proper share".

THE CHAIRMAN: That recommendation could be made even if they were all paying more than their proper share.

MR. O'DONNELL: That is true. On the other hand it is a part of the brief which makes certain representations concerning the situation which it would seem to us to be a proper matter to be put before the Commission and which the Railway Association thinks of sufficient importance to be incorporated in its brief.

MR. SINCLAIR: Perhaps I should say that substantially I would like to support the remarks made by Mr. O'Donnell.

MR. HUME: Mr. Chairman, I find myself in complete agreement with the remarks made by Mr. Frawley, and the only comment I have to make is that the association which I represent does not object too strenuously to it going in; but if this Commission is not going to express any opinion or reach any conclusion in it, it seems it is an awful waste of time.

As to recommendations that the Commission may make

that users of the highway should pay their proper share, of course the position is that we all agree they should, and we say they do. But to take the time to read a letter saying whether or not they are, no finding is going to be made, seems to be a waste of time.

THE CHAIRMAN: We are enquiring into matters which are within the jurisdiction of the Parliament of Canada respecting transportation.

MR. O'DONNELL: That is true, my lord. On the other hand insofar as the national policy on transportation is involved, it occurs to me that it is a proper matter to be put before the Commission, in order that the Commission may get some idea in the formal way of what the situation is. As the closing sentence in that paragraph of the letter that is referred to, reads: "This would not preclude the Commission making a recommendation that they should pay their proper share".

I do not think it is a waste of time to hear what the Association thinks with respect to that. The subject matter is not very lengthy, and we have certainly taken a lot of time on other subjects which, in my respectful submission, have possibly been not quite relevant.

THE CHAIRMAN: There may be (I am not saying there are), there may be abuses of different kinds going on within different provinces, over which Parliament here has no control at all and which may be none of Parliament's business.

MR. SINCLAIR: If I may say so, my lord, it may suggest to the Dominion the necessity of really putting a real effort into doing something by co-operation and negotiation as a first step towards attempting to have uniformity, and some investigation into this

very important matter, and if that failed, failing all that, then there would of course be the other alternative, to attempt to secure an amendment.

THE CHAIRMAN: What other alternative is there if the provinces do not allow themselves to be properly admonished by their uncle?

MR. SINCLAIR: Then there is always the other alternative, which is to secure amendments to the British North American Act.

THE CHAIRMAN: Oh, I see.

MR. FRAWLEY: My lord, there is another aspect to this. This brief I think will be well publicized throughout the Dominion Government and there will be therefore an allegation that in the Province of Alberta motor vehicles are not paying their proper share of highway costs. That is not the fact and I am here on behalf of the Province of Alberta to say so and to prove that is not so; but I am not prepared to do it and I do not propose to do it, in consequence of a very responsible letter, a copy of which I received from Mr. Covert, very properly written.

I do not think it is the business of this Commission, with the greatest respect to worry about whether or not the Province of Alberta even does, if it should be the fact, permit highways to be used by motor vehicles without the motor vehicles paying their proper share. It does not happen to be the fact and I can prove and I can establish it, but I would have to have time to establish it, and that is why I was very glad to learn from Mr. Covert's letter that the Commission would not go into it.

THE CHAIRMAN: You have to have a tribunal competent to hear it.

MR FRAWLEY: Yes, that is true, but I do not want it said across the country by the Railway Association that in Alberta the motor vehicles do not pay their proper share of highway costs. He can say it about every other province except Alberta.

MR O'DONNELL: You were saying plenty about the railway situation. However, in our submission a very important fact, and one that is the cause of much trouble, is the encroachment by trucks upon fields which the railways previously enjoyed. Now, in order to make a recommendation concerning a national transportation policy, although some part of the solution of the problem may require the co-operation of the provinces or the amendment of the British North America Act or something else, surely it cannot prevent this Commission from saying, "Well, part of the problem is in fact due to the method in which trucks are permitted to compete," and, while it is true that the bulk of the competition takes place within the provinces as such, it should not preclude the Commission from saying, "We find the source or the cause of the trouble is such-and-such."

THE CHAIRMAN: Ask us to make an actual finding that within a certain province---

MR O'DONNELL: No, I do not ask that at all, my lord. I am quite content to take the letter as it stands, to take the suggestion contained in the letter, that, while the Commission does not intend to make an actual finding of fact as to whether or not motor vehicles are now paying their proper share of the highway costs, this would not preclude a recommendation that they should pay their proper share of the costs.

THE CHAIRMAN: I have not consulted my colleagues,

but I do not see why we should not say right now that everyone should pay his proper share.

MR O'DONNELL: That is quite true, but on the other hand---

THE CHAIRMAN: You would not ask us to go so far as to ascertain what would be a proper share?

MR O'DONNELL: Not at all, not at all.

THE CHAIRMAN: Then the formula that everybody, or that trucks, should pay their proper share, would apply to the horse and buggy and everybody else, or to the pedestrian. What strength would there be in our saying that everybody should pay his proper share?

MR SINCLAIR: I think, in view of the situation as it exists now, my lord, where the Dominion out of general revenue is contemplating the expenditure of very material sums of money on account of the Trans-Canada Highway, the Dominion may give some weight as to terms and conditions upon which that money was granted, in regard to the use of the highway and its construction, and whether construction would be very much more expensive -- for instance, it may be a five-lane highway; somebody before this Commission said a six-lane highway -- just because there happened to be very large semi-trailer operations say between Montreal and Toronto. And I think that it is most material that the Canadian Pacific as an extremely large taxpayer in this country should have something to say about matters as to the proper share of highway construction and maintenance and operation costs being borne by their competitors.

THE CHAIRMAN: You are referring now to the proposed Transcontinental Highway, I suppose.

MR SINCLAIR: That is one.

THE CHAIRMAN: Well, is not that matter already

under way? That is to say, is not the Dominion already co-operating with the provinces as to the construction of this highway?

MR SINCLAIR: Yes.

THE CHAIRMAN: The sharing of the costs, the route to be followed, and all that sort of thing.

MR SINCLAIR: Yes.

THE CHAIRMAN: The Department of Reconstruction here I understand is the agency of the Dominion Government, and the respective provincial governments are in conference with the Department, and in some cases routes have already been selected. Would all these things be attended to there?

MR SINCLAIR: Well, my lord, here we have before us a question of a national transportation policy and the position of the various media of transport in the transportation field, and I submit that this additional right-of-way extending from one end of Canada to the other, how it is to be used is of material importance to that national transportation problem, as has been pointed out by some of the provinces, Newfoundland I believe for one.

THE CHAIRMAN: What would be the use, Mr. Sinclair, of this Commission going into all that would be entailed in such an inquiry in the ten provinces of Canada, if all we are asked to formulate as a result is the mere recommendation that everybody should pay his fair portion of the cost of the highways? I say we can do that now.

MR SINCLAIR: Yes, but I say the Commission should recommend further that an inquiry should be made to see that the various elements of the users of the highways, particularly the Trans-Canada Highway, should bear their fair share of the cost of construction, maintenance and operation of that highway.

MR COVERT: Inquiry by whom?

MR SINCLAIR: By the Dominion, in connection with moneys that are being expended on the Dominion Highway.

MR COVERT: Inquiry by whom?

MR SINCLAIR: By the Dominion.

MR FRAWLEY: Well, that is going on now.

MR HUME: Mr. Chairman, I am constrained to remark that I think we might have had the letter in by this time.

MR O'DONNELL: Yes, I agree.

MR HUME: But the important point is that the question as to what is the proper share -- that is what these eleven pages are directed to, to show that the user is not paying his proper share. We all agree that they should pay their proper share, and this letter, as I interpret it, meant that I did not have to meet the case that the trucking industry was not paying its proper share. I do not intend to call any evidence on that at all. Therefore I submit that to read these pages or put them in the record would not be proper, when they are only directed to prove that the users are not paying their proper share, and it is the problem of what is the proper share. The forum for that, I suggest, is the provinces themselves. It has been studied in other provinces, and they have spent days of hearings, and there are as many theories as there are people who claim to be experts on it. It was only in that regard that my letter was written, and I presume the reply came in connection with that. I do not think this is the proper forum to go into what is the proper share. I think it would keep you here for months.

THE CHAIRMAN: Well, Mr. Covert, have you something to add in connection with this turmoil?

MR COVERT: Mr. Chairman, it seems to me really that everybody is in agreement, that we should not have an

investigation as to what is the proper share. Everybody is in agreement that we cannot make a finding, and what really puzzles me is what the debate is about. I suppose the real debate is as to whether or not this evidence should go in. As to that, I suggest---

THE CHAIRMAN: You refer to it as evidence?

MR COVERT: Well, this part of the submission -- whether it go in the record.

THE CHAIRMAN: Well, does this part of the submission make allegations concerning various provinces?

MR COVERT: What it does, sir, is to set out the allocation of the cost. It refers to certain studies and reports that have been made in the past in England, in the United States and in Canada, and shows what the figures were, the proper shares of costs for the various highway users, and it also goes into the question and gives figures as to what the truckss, or perhaps I should say the automotive industry or highway transports, have paid by way of revenue through licenses and taxes, and so on; and I think the Railway Association indicates that there have been times when the trucks have paid their share, and that now -- I think the figures given are for 1946 -- they are not paying their share, and they are afraid they are not going to pay their share in the future. Now, all this is in the brief, and there is substantial---

THE CHAIRMAN: I suppose, if the trucks in any province are not paying their share, then those who use the highways are paying a disproportionate share -- not those using the railways. Is that the point? If you take a province and say that the trucks are not paying their proper share of highway construction and maintenance, then the question arises, well, who is suffering from that, and who is paying the share that the---

MR COVERT: I think the answer may be the taxpayer, Mr. Chairman.

THE CHAIRMAN: Yes, it would be; but then you would say, though, because the province allows the trucks to carry on without paying their full share, that gives them an advantage over the railways.

THE WITNESS: That is the point.

MR O'DONNELL: Bankrupting the railways; that is what it amounts to.

MR FRAWLEY: Subsidized highway transport, is the allegation against us, and we deny it.

MR O'DONNELL: It occurs to me, my lord -- I do not want to take any lengthy time on this, but this is the first time through this lengthy sittings when any objection has been taken to anything, and a lot of things, in my respectful view, have been put forward that might not have as much to do with the problem as this has.

THE CHAIRMAN: That may be, but when an objection is taken---

MR O'DONNELL: I agree with that, too; but on the other hand I submit this: Actually all this brief endeavours to do is to put before the Commission all the circumstances under which the railways are forced to operate in this country, and the circumstances under which they have to compete with another agency of transport, and particularly the trucks, which are allowed to compete under conditions which in our view are unfair, and for which some solution should be found if at all possible. Now, surely it is not irrelevant to put the problem or the facts relating to the problem in so far as the Railway Association sees it before the Commission. If the Commission chooses to disregard it when we or our friends argue against it in the final analysis is neither here nor there, but at this point, when

the brief is in any event to form part of the record -- that was the arrangement at the outset -- I do not see why the Commission, unless it chooses not to hear it, should not be permitted to hear it.

THE CHAIRMAN: Well, suppose you say that there is an allegation that the railways are handicapped by the fact that in some or in all of the provinces these trucks are not paying their proper proportion of the cost of the highways, and if such is the case, then as a fact the railways would suffer, therefore it would be recommendable that the trucks and everybody else should pay their proper share -- of course you say all that; are you not saying enough? What would be the use of going into the affairs of each province and ascertaining whether or not a particular user of the highway is paying his proper share? You see, there are ten provinces, and some of them might object to their affairs being gone into. For instance, I remember on a previous Commission of which I was Chairman, in connection with the grain trade, it had aspects which were Dominion and other aspects which were provincial; well, in order to make our position secure, the Commission obtained Orders in Council, that is, Royal Commissions, in each of the provinces concerned as well as the Dominion one. We were made Royal Commissioners for Saskatchewan, Alberta, Manitoba, Ontario, and I think in fact all of the provinces, really, in order that there might be nothing to hamper us in our carrying on. Now, are we confronted with that kind of situation today?

THE WITNESS: No.

THE CHAIRMAN: We are dealing here with matters over which the Dominion Parliament has jurisdiction, and none other, so we have to be careful.

MR O'DONNELL: That is quite true, my lord.

THE CHAIRMAN: We have to be careful, therefore, in allowing you to make allegations or to purport to give evidence by way of a brief to set up that in any particular province there is an unfair treatment of railways going on by the fact that the truckers are not paying their proper share of the building and maintenance of the highways. Isn't that right?

MR O'DONNELL: Well, we have had, my lord, if I may so say, evidence and submissions even filed by the Province of Alberta itself concerning highway transport in Alberta, and we have had all kinds of evidence and information concerning the manner in which in each one of these provinces certain aspects of the problem are handled; surely, I would submit, the door is open.

THE CHAIRMAN: Well, have we had any evidence of that sort which has prejudiced the situation of the railways before us, do you think?

MR O'DONNELL: I think we may have part of the picture in, and we would like to have what we consider the balance of it in. However, my lord---

THE CHAIRMAN: Well, you see our difficulty, don't you? Here we have representatives of the provinces saying that the province does not want us to inquire into what are altogether provincial matters; but I say in so far as making a general recommendation is concerned, it seems to stand to reason, that is all.

MR O'DONNELL: Well, my lord, could I make this suggestion, that what is contained in these few remaining pages might be heard, and a decision could be made having heard it as to whether or not there is anything objectionable that would require a decision?

THE CHAIRMAN: Well, it is in the brief now, and the brief is filed, and your suggestion is that it be read

out loud.

MR O'DONNELL: Well, I see no need to read the whole thing, but such portions as the witness likes to draw to the attention of the Commission.

THE CHAIRMAN: Very well. Does Mr. Hume object to that?

MR HUME: No.

THE CHAIRMAN: Very well, go on, Mr. Gaffney.

(Page 9210 follows)

THE WITNESS: Commencing at page 24 the brief says:

"The calculation of the capital and operating costs of providing the public right-of-way used by motor vehicles is the first step towards a realistic assessment of the problem. It is idle to discuss the costs of highways and the allocation of costs between direct users and the general public until these costs are developed. There is no authentic, inclusive statement of highway costs."

From there, sir, we go to a discussion of the jurisdiction of the provinces in building highways and collecting fees and so forth from them, and turning over to page 25 we list in the middle of that page five exhibits which give the public revenues and expenditures on rural roads and urban streets in Canada as reported by the provinces to the Dominion Bureau of Statistics. We point out there that on the basis of these published figures provided by the provinces, exhibit 14 indicates that during the years 1930 to 1946 known expenditures for construction and maintenance of rural roads and urban streets exceeded highway revenues by \$351,000,000.

Then we go on from that point to a discussion of a survey conducted in Ontario by Messrs. Breed, Older and Downs and what it shows and in the paragraph on page 26 we add:

"A rough approximation of this subsidy has been arrived at on the basis of the method used in the Breed report. The expenditures on rural roads for the years 1919 to 1926 inclusive are based upon aggregated figures for these years reported in the 1937 issue of the 'The

Highway and Motor Vehicle in Canada' prepared by the Dominion Bureau of Statistics and the apportionment to each year on an equal basis purely arbitrary lacking better information."

The details of that are given on Exhibit 15, and then we say that for those years 1919 to 1946 inclusive, the expenditures, the cumulative annual cost as published of the public right-of-way exceeded revenues from direct users by \$528,000,000.

On the top of page 27 there is a discussion of the allocation of the cost of the highway system and it deals primarily with the problem of the division of the total expenses between direct users and that portion which might properly be chargeable to what is termed "Social necessity". That carries over all through page 29 to page 30. In the middle of page 30:

"In 1942 every province in Canada, except Quebec and British Columbia, demonstrated that annual construction, maintenance, and administration expenditures could be more than met by revenues from direct users. In 1946 seven of them were no longer in this position, as the following compilation (which is based on the official statistics given in Exhibit No. 14) shows:"

and then follows the table.

MR. FRAWLEY: Those are D.B.S. figures, are they?

A. They are Dominion Bureau of Statistic figures as reported by the provinces.

Q. No inquiries made of any provincial offices?

A. No. We say at the bottom of page 30:

"This, it is submitted, is an extremely serious situation and one that should not, under any circumstances be permitted to continue, unless

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it is conceded that direct users of highway transportation are not to be required to meet the costs of providing their right-of-way."

Following that, we go into a discussion of the over-all costs of the highway during these years. The Breed Report is quoted as a method of allocating costs between the different vehicles and I think that discussion under general carriers goes over to the middle of page 33. At that point:

"With this background, this Association suggests that your Commission, as has been done by other Commissions and other authorities, should make a recommendation concerning the division of highway costs between direct and indirect users that is appropriate to Canada and that will serve as the basis for the policy of the future.

It is urged that your Commission may properly point out that the policy of subsidies to highway transportation imposes a heavy burden on provincial and municipal taxing authorities and also introduces grave difficulties into the whole national transportation system by enabling the highway vehicle to expand its uneconomic competition with railways".

There follows, commencing on page 34 a discussion and allocation of the direct users' proportion between various types. On page 35, the opinion of Mr. T. H. MacDonald, Commissioner of Public Roads of the United States as to the damage done to highways by the heavy vehicles is given, and the full text of his speech as reported is reproduced in Exhibit No. 18.

The next few paragraphs to the end of page 36 deal in general with the cost allocation studies and some of these have been summarized and are shown as Exhibit No.19.

At the top of page 37, and I think sir, this is the nub of the whole section dealing with highway costs and their allocation:

"This Association accordingly urges that your Commission should recommend that an exhaustive study of highway costs and their allocation among motor vehicles be undertaken to determine the fair and reasonable proportion that should be borne by the various classes of such highway users. It is submitted that by this means the private motorist and the taxpayers would be relieved of the burden of providing facilities for commercial highway transport both public and private. This Association reiterates the view that there should be no distinction between common carrier, contract carrier and private highway transport in payment for the use of the highway system.

In concluding this submission the Association again ^{emphasizes} the seriousness of the problem of competitive highway transport which confronts the railways. This Association does not take the position that the recommendations herein contained will alone solve the competitive problems of the railways but does state most emphatically that no national transportation policy could be considered as adequate which does not include these proposals as essential elements. The Association has no doubt that a continuance of the present situation may

well lead to a breakdown of the entire transportation system in Canada. There is no greater need facing Canada than to find a solution of this problem. Unless and until a sound solution is found the real cost of transportation will be higher than necessary and the ability of the railways to provide the essential transportation service will be seriously jeopardized."

THE CHAIRMAN: Do you summarize anywhere the recommendations you make in paragraphs - 1, 2, 3 and so on?

A. I could do that for you, my lord; it is not done in the brief.

Q. Well now, who intends to question Mr. Gaffney next?

MR. COVERT: I do my lord.

THE CHAIRMAN: You do?

MR. COVERT: Yes, my lord.

THE CHAIRMAN: Is it worth while beginning now?

MR. COVERT: I think perhaps we may as well adjourn now.

THE CHAIRMAN: Well we will come back at a quarter to three.

The Commission adjourned at 12.55 p.m.
to resume again at 2.45 p.m. this day.

(Page 9215 follows

AFTERNOON SESSION

Friday, November 18th, 1949.

F. A. GAFFNEY, recalled.

EXAMINATION IN CHIEF BY MR. COVERT, resumed:

THE CHAIRMAN: All right, Mr. Covert.

MR. COVERT: Mr. Gaffney, would you turn to page 1 of the submission in the last paragraph on the page to the end of the page, where you say that the railway transport must not be subjected to unfair competition from other forms of transport. I just want to find out if by unfair competition you really mean unregulated competition, on the ground that you are regulated and other transportation is not?

A. That is one ground. Another ground of unfairness, we consider to be what we claim, that is, that our highway competitor does not pay a fair share of the highway cost.

Q. Those are the two grounds you say would lead to unfairness?

A. That is correct.

Q. Then at the top of page 2 you say:

" . . . that all forms should be so regulated as to ensure that unnecessary duplication of service shall not be permitted."

I take it you mean by this that of course where the railways were not perhaps the most economical means of transport, that they would be ordered to abandon the service provided by them, and that that service would be provided by some other form of transport?

A. I would contemplate that.

Q. Then I believe you also feel that not only "for-hire" transportation should be regulated, but also transport which is not for hire?

A. That is, the private truck, excluding the farm vehicle.

Q. Excluding the farm vehicle?

A. That is correct.

Q. I suppose you advance that because of the suggestion or perhaps the probability that if transportation by private truck is regulated and "for-hire" trucking were regulated, it would not solve the problem as far as the railway is concerned?

A. That is correct.

Q. And perhaps would lead to more private trucking?

A. That is so. On that point, that situation has arisen today in the United States. As I think we mentioned this morning, the Interstate Commerce Commission controls interstate trucking for hire, but in an effort to get around that a situation has arisen where the common carrier for-hire trucker will lease his vehicle to an individual shipper and by so doing permit that shipper to move his goods to any point in the United States, regardless of the licence held by the man who leases the vehicle. If it is allowed to continue it would have the effect of entirely destroying the Interstate Commerce Commission regulations as to hire transport. The Commission has undertaken an investigation on its own motion, which is underway at the moment in an effort to stop it.

Q. I suppose, Mr. Gaffney, you could tell us: Has the regulation so far adopted by the I.C.C. been of much assistance as far as the railway is concerned? Is it not still as great a problem today, that is competition between trucking, as it was before?

A. We feel that is so and that there was a defect in the original legislation of 1935, which the Government

attempted to correct in a later Act of 1940, but in the meantime the damage had been done.

Q. And I suppose it is a fair statement to say that there would be tremendous difficulty involved in regulating private trucking?

A. I see no greater difficulty there than with the commercial vehicle.

Q. Of course it would not involve rate regulation, would it, because they are not for hire?

A. No.

Q. So would it involve allocating it to distances?

A. We have made no definite recommendations on this point. We are content to leave the determination of that to the body that we ask to be appointed to consider the whole national transportation picture, and we are quite content to leave with them what is the place of each individual method of transport.

THE CHAIRMAN: Pardon me, would you go so far, then, as to say that the owners of these vehicles should pay their proportion of costs towards the upkeep of the highways?

A. Yes.

Q. You would go at least that far?

A. Yes, my lord, and a step further, that they should be regulated to proper public convenience and necessity in the operation of their vehicles.

MR. COVERT: Q. You say that the one aim in so far as the regulation of private transport is concerned is that they pay their share?

A. That is correct.

Q. The other is that they also have to show public necessity and convenience?

A. That is correct.

Q. I suppose public necessity and convenience in the case of the private trucker would be considerably different than in the case of a "for-hire" trucker?

A. I would not think so, I would not think so at all. It seems to me that the private trucker would have to show there was a public need for him operating his own trucks, in other words, that the existing transportation facilities were inadequate to take care of his business.

Q. Even though perhaps it was cheaper for him?

A. I think that would have to be determined on something more than an individual cost basis.

Q. I see; you would have to take into account something else than paying his share, would you?

A. Yes, I think you would have to take into account his position in the whole transportation fabric.

Q. Then, for instance, even, say, the effect on railways?

A. On railways; on other truckers, most decidedly; on steamship lines, whatever it may be.

Q. Could it not be said that that was a little attempt to stop progress?

A. I do not think so. It is an effort to make progress.

THE CHAIRMAN: To stop what?

MR. COVERT: To make progress.

THE WITNESS: I think it is an attempt to make progress, to put your transport on such a sound basis that you had allocated to each facility that portion of the transport that it is most capable of handling.

MR. COVERT: Q. There are no countries that have arrived at a successful control of private trucking, are there, Mr. Gaffney, do you know?

A. I do not know about successful, Mr. Covert.

There are countries that have arrived at regulation of private trucking. South Africa is one; the States of New South Wales and Tasmania in Australia are others.

Q. In all those places the railroads themselves are owned by the State, is that not correct?

A. They are in South Africa; I believe they are in New South Wales, I am not too sure about Tasmania, whether they are State owned.

Q. I suggest to you that they are not entirely happy about the regulations which they have made.

A. Who are not entirely happy?

Q. For instance, I believe in the two States in Australia.

A. Who is not happy in the states?

Q. The state itself?

A. The state itself, I beg your pardon. I would not comment on that, I do not know, to be quite frank. My general impression is that they do not feel they have found a complete solution.

THE CHAIRMAN: You would go so far as to say that the regulations made in certain cases prohibit a firm from trucking its own goods?

A. That might be possible, sir.

Q. Do you think it might be possible in Canada?

A. I think it would be possible if, as a corollary to a national transportation policy, it proves to be in the interests of the country. For instance, to maintain a rail line into a certain area, then it seems to me that competing forms of transport, whether they be commercial or private, should have some condition attached to their operation that does protect the rail line if it is considered to be necessary in that area.

MR. COVERT: Now, Mr. Gaffney, would you turn to

page 5 of your brief in the penultimate paragraph where you deal with the passenger earnings of the railways.

I want to know first if you were recommending that anything should be done about the use of buses, and so on?

A. They would come under the general recommendation of the control of interprovincial and international highway transport.

Q. And most of the bus lines, I understand, are regulated on the basis of public necessity and convenience in this country?

A. That is true.

Q. And I just want to draw your attention to the exhibit dealing with that. I think it is --

A. No. 5.

Q. No. 5 of Exhibit 121. Now, I suppose it is fair to say that the peak during wartime would be tremendously abnormal?

A. The peaks?

Q. The peak.

A. In railways?

Q. Yes, so far as passengers are concerned.

A. Oh, we think so.

Q. And the graph showing the present trend, I suppose, really indicates that you are getting back to normal?

A. I do not know. Do you mean this projected line from 1900?

Q. No, not the projected line.

A. The curve of the railway revenue?

Q. Yes.

A. That is correct.

Q. I was wondering whether it would be fair to say that the sum of the revenue from the bus earnings,

plus the gross passenger earnings, which are 83,000,000 plus about 43,000,000 I think, is it not, which would be about 126,000,000, the combination of the two would perhaps indicate about what the level would be that the railways would arrive at if it were not for the buses.

A. No, I don't think that would be quite fair because I think that the bus has developed its own right and a good deal of its own travelling.

Q. So then if the bus had not come into existence, perhaps your rail earnings, passenger earnings, would not be anything like the combination of the two?

A. That might well be. We feel that some of the revenue, the gross revenue, of the buses is revenue that would accrue to the railway had the bus not been there, to be quite honest ^{but} I think a good deal of the passenger revenues of the bus stem from conditions and circumstances made possible by the bus, frequency of service and that sort of thing that the railway could not possibly give.

THE CHAIRMAN: Pardon me - I suppose that it is only for the transport of goods that you would compel people to use the railways?

A. We are mostly concerned with that.

Q. You would not compel a man to travel on the railway if he had a chance of travelling on a bus or in his own car?

A. Not at all.

Q. You would not compel him. Would you prohibit him from transporting his own goods?

A. Yes, my lord, and there is a reason for that. In the passenger field we have no criticism of the rates on buses, as such, because they follow pretty much the same trend as the railways.

Q. No, I was applying myself rather to the man transporting or travelling himself in his own car.

A. We do not quarrel with that, sir, at all.

Q. But you would not let him transport his goods in his own car?

A. No, my lord, because in that field we feel that the regulations that have been placed on the railway demand that some consideration be given to the railway on the other end of the scale, and that is in the transport of goods.

COMMISSIONER ANGUS: Your point, as I understand it, is that there is not the distinction between one group of passengers and another --

A. No.

Q. That there is between low value goods and high value goods?

A. Exactly, sir.

MR. COVERT: Q. Now, Mr. Gaffney, would you turn to page 8, to the middle of the page, where you estimate that about 50 per cent of highway freight traffic in Canada is beyond the economy limits of truck haul. I want to ask you first if that is to be calculated on the basis of the graph, Exhibit 6, in Exhibit 121?

A. That is correct.

Q. So that when you talk about it being beyond the economic limits of truck haul, you are saying that as compared with the rail?

A. With the rail cost.

Q. And it does not indicate that the trucks cannot make a haul of greater distance than is indicated on the Exhibit 6 and still make money?

A. Oh, no, it has no relation there at all. One is a matter of cost and the other is a matter of rates.

Q. Then in preparing this graph you have used a different basis for trucks and for railway operations. You take, I think, just the out-of-pocket costs for railways, and the treatment as far as trucks are concerned is considerably different. I think that is clearly shown on page 9.

A. It is explained on page 9.

Q. You have excluded return on investment. I don't think you have taken that into account in either one.

A. We have taken interest in in the case of the truck.

Q. Yes, that is correct, and then fixed charges, depreciation and general overhead expenses. You have excluded those in the case of the railways, and yet you have depreciation, interest and general overheads in in the case of trucks.

A. That is correct.

Q. So I suppose that if the graph was prepared on the same basis it would present quite a different picture.

A. A very slightly different picture. The matter of interest would be very slight indeed in the case of truck operations. Depreciation would be something more again.

Q. I suggest to you, in fact I say to you, that were those items excluded, the incidence of those curves would not be greatly different to what is shown on Exhibit 6.

COMMISSIONER INNIS: There is no problem of out-of-pocket costs so far as the trucks are concerned?

A. No.

Q. You would be sure about it?

A. Well, we take the whole truck cost as substantial

out-of-pocket cost.

Q. That is from your standpoint?

A. Yes.

Q. But from the standpoint of the truck, is it not in exactly the same position, that is to say, whether it will carry traffic to cover its out-of-pocket expenses?

A. I think the point, sir, what I am trying to say, is that the addition of a very small amount of out-of-pocket to the truck means an increase of capital expenditure in the form of a new truck. Therefore we think that the flexibility is so narrow that it is proper to charge interest and depreciation on a capital commitment. It is debatable, it is quite debatable, to be honest with you, to present it fairly. We have tried to put in here exactly what we have done.

MR. COVERT: Q. Did you attempt to prepare a chart on the other basis so that it would be an exact account?

A. No, because we consider this is sufficiently exact as to be comparable.

Q. Then, Mr. Gaffney, to do this, as you have pointed out, I think, you take the system average of the C.N.R., do you not?

A. Yes.

Q. That is the --

A. That was the criteria.

Q. Yes.

A. In that respect it was to avoid work, as a matter of fact, but I don't believe that the system averages of the Canadian National and the Canadian Pacific, put together for these items of cost, would vary a great deal. We thought ours were fairly representative.

COMMISSIONER ANGUS: Q. Mr. Gaffney, is the

basic contention really that the shippers of low value commodities, bulk commodities, have a vested interest in securing assistance from the shippers of high value commodities in the future as they have done in the past through the railways?

A. That is not particularly our contention, sir, but we are facing the fact that that contention seems to be reflected in legislation.

THE CHAIRMAN: What else can it be? You see, you are going very far. You are not only saying now what people should not do (the Commandments are in the negative -- "Thou shalt not") but you are saying in effect to this private manufacturer or business man, "Thou shalt ship thy goods by train and no other way", are you not?

A. We are, sir, that is quite correct..

Q. You see the distinction, do you not?

A. Yes, but the reason we are saying that is that at one end of the scale we are told we must do certain things, and we say that if that is to continue then at the other end of the scale somebody else must be told that they have to do certain things, if you accept the concept of a railway as being necessary.

COMMISSIONER ANGUS: But what advantage, if any, does the shipper of high cost goods get from being told that he must not have his own fleet of trucks and move his own goods, and if he is a shipper, then moving them by rail, that he must incur the higher cost of moving by rail?

A. I think, sir, that is reflected in the whole, taking Canada as one unit, that in the broad picture he must receive some benefit. I can only assume that our

legislature has talked to the railways and said, "You must do certain things for the general interest of Canada", and if that is correct then that general interest must apply to the shipper of high grade commodities as well as to the shipper of low grade commodities.

Q. Let us put it differently. Why should shippers of that sort be compelled to patronize the railways, ship by rail, and in that way keep the railways in funds, rather than the taxpayer at large be compelled to subsidize the railways to keep them going?

A. I have no argument on that point.

Q. You have no preference there?

A. Well, I would not say I have no preference, but the Association expresses no view on that point; but if the railways are considered to be necessary, I think that disability of handling low grade commodities has to be met in some way. We suggest that it be met in this way. You are suggesting that it might possibly be met by subsidy.

Q. I am suggesting there is an alternative way of meeting it, if you show reasons for preparing alternative A to B.

A. My own personal view is that I am against subsidies. I would like to see railways in a position to compete for traffic and stand on their own feet.

THE CHAIRMAN: But then when you force people to use them, because that is what you are doing in the case of the private manufacturer, you are making him subsidize the railways.

A. I don't think he is subsidizing the railways, sir.

Q. Isn't he, to the extent that he might, if he had his own vehicles, operate at cheaper rates?

A. That is true, but the same man, Mr. Chairman, may go to the railway and exact a very low rate for the movement of his base commodities such as coal or whatever he uses in the manufacture of his product, and he gets it from the Board of Transport Commissioners. On the other hand, if he is not compelled to have it carried at a rate at which we could normally expect to move it, he goes to some other agency, either Truck Teamsters or to someone else.

Q. Does not the Board of Transport Commissioners take all the circumstances into consideration in fixing rates?

A. The Transport Board?

Q. Are not those arguments that should be addressed to them?

A. No, sir.

Q. When rates are being applied for and rates are asked to be changed, and so on?

A. With due deference --

Q. Cannot the railways legitimately say, "Now, here we have competition that we did not have ten years ago. Our rates must go up."? Cannot they do that? Don't they do that?

A. We can and do do it. On the other hand, we are met with the answer that the Board of Transport Commissioners has no jurisdiction over the highway movement.

Q. Of course they have not, but it is part of the facts under which the railways come and say, "We must have an increase in freight rates. Otherwise we cannot carry on on account of this competition".

A. That is quite correct.

Q. They cannot stop the competition and they cannot regulate the competition, but it is there as one of the

factors that go to increase the necessity of the railways?

A. That is correct.

Q. Well, are not those things put before them?

A. I think they are, to the best of my knowledge,

but our position is that I would feel that we are not getting the type and quantity of relief that is necessary to keep us functioning.

Q. Then if the contrary were done, if these competitors, whether they be public carriers or private people, were eliminated, then I suppose you would expect railway rates to go down. Would not the public then look at it this way and say, "You won't let us ship by truck, you won't let us ship our own goods. Therefore the railways should lower their rates"?

A. Well, Mr. Chairman, I don't know.

Q. I mean, you would have that problem, surely.

A. You may have that problem, but I don't know how that could arise. We are controlled by the Board of Transport Commissioners, and in theory at least, one of their functions, as I understand it, is to so control the rate structure of the railway, that there is not too great a return to the railway on the capital invested in the plant. I think that is one of their functions, and at any time they can step in and demand that the railways reduce rates if they think they are making too much money. On the other hand, when we have these two groups of traffic, the low-rated and the high-rated, and the freight rate structure, as fabricated, is intended to balance one with the other, I do not see how (to follow through on your question) if highway competition were eliminated, the public could expect the railway to lower the rate on the high rate traffic unless we raised it on the low rate traffic, because it would again destroy the balance.

(Page 9240 follows)

Q. So long as you remain within the railway area, and say, "Because we have to carry these low valued commodities at a low rate, therefore we should have a higher rate for carrying the more valuable commodities" -- then of course the argument is simple, in a way, as I understand it.

A. Yes.

Q. When you say, "Don't only give us higher rates for carrying these more valuable commodities, but prevent competition or curtail competition in the carrying of them," then you go into another area, you see.

A. Yes, my lord, but I know of no---

Q. Especially when you go so far as to say, "Prevent anybody carrying his own."

A. Well, my lord, I know of no other way that you can maintain---

Q. I put the difficulty so you and I can discuss it; I am not dismissing your---

A. No; I am trying to get clear in my mind just what you mean by that, but the only way that I can see that you can maintain those high rates, sir, is to see that someone controls another method of carriage. If that other method of carriage -- in this case the truck -- is permitted to come in and siphon off the high rates, how are we going to stay in balance? That is the problem I am struggling with.

COMMISSIONER ANGUS: Q. Apart from the political difficulties of the two cases, would it be a simpler method if the Dominion Government simply taxed all movement of high-class commodities and used the proceeds to subsidize the movement of all low-cost commodities, whoever moved them? They would in theory keep the high rates for the high-class commodities and the low rates for the low-class

commodities. The railways would be getting the subsidy on the low-cost commodities, and trucks and railways paying the taxes on the high-cost commodities. Your system would be in balance, and there would be no need to consult the provinces.

A. In theory, sir, that would be quite correct; that would keep the balance. I am thinking of something that will maintain that balance between the low and high rated commodities. Your suggestion of a subsidy -- which I take it to be -- that would do it, there is no doubt about that; mathematically it will work that way.

COMMISSIONER INNIS: But you could not be bribed to take a subsidy.

THE WITNESS: Don't press me too far, Dr. Innis.

COMMISSIONER ANGUS: Q. You would consider that a just system, a fair system to the shipper?

A. The system that you mentioned?

Q. Yes.

A. I would like to think about that. You are taking me into another field, sir, and one that I am not too qualified to walk around in. I am not sure that I would like to answer that question.

Q. Well, it is the same sort of problem as that of permitting somebody to use his own truck to carry his own goods.

A. It is true, from the standpoint of getting the money, I agree with you, but I have some theories on how we obtain our money, and a subsidy is one I must confess I do not particularly care for.

Q. You are thinking of the demoralizing effect on the railways?

A. I would not comment on that.

THE CHAIRMAN: Q. Do you think, then, that the

railways are prepared to face the contention that would arise if manufacturers and other business firms were prohibited from having their own trucks and shipping their own goods?

A. I think so, sir.

MR O'DONNELL: If you got all the traffic you could afford to give a lower rate.

THE CHAIRMAN: I beg your pardon?

MR O'DONNELL: If they got all the traffic, or had a fair chance of getting all the traffic, I would assume that the rates as a whole might be able to go down.

THE WITNESS: That is a possibility; but I do not know that it would be any direct assurance of that, Mr. O'Donnell.

THE CHAIRMAN: Do you think that if you eliminated all the private trucking in Canada the rates would go down anywhere?

MR O'DONNELL: Well, I don't know.

MR FRAWLEY: It is in the record now, what Mr. O'Donnell said. I am going to look up the page.

MR O'DONNELL: I was merely asking a question, Mr. Frawley.

THE CHAIRMAN: Well, we must face these difficulties as you bring them out. It is one thing to talk to public carriers, those who are paid by others for doing their driving and charging rates, but then it seems to me it is quite a different thing to talk to the individual and say, "You must not drive your own truck."

THE WITNESS: I realize that there is a natural--

THE CHAIRMAN: "You must hand over your goods to a railway."

THE WITNESS: Quite, sir; I realize that there is a natural reaction.

THE CHAIRMAN: That is quite an extreme step to ask.

THE WITNESS: Yes, but let me make this point clear. I am not suggesting, sir, that they have to hand over their goods to a railway.

THE CHAIRMAN: Q. What else, then?

A. Well, you would have the commercial operator, that is, the for-hire operator, operating in his sphere, under control, under regulation.

Q. You mean the truck?

A. The truck; and the private man, the private trucker, would operate in the same sphere; he would be permitted to operate in the same sphere, sir.

Q. What sphere?

A. Whatever is considered to be economic, in the general interest of Canada.

Q. You mean sphere, talking of a region of the country or---

A. Or a distance, whatever it might be, sir.

Q. So that you would limit the private truck, then, to operating within a certain distance of the plant?

A. Quite; quite, my lord.

Q. You would not suppress it altogether?

A. Oh, not at all; there is no suggestion of that.

Q. Well, I am glad you brought that out, you see.

A. I am sorry if I was confusing in what I said.

Q. How far would you allow the private truck to go, do you think?

A. We are quite frank in saying, my lord, that we do not know, nor do we know how far the commercial trucker should be permitted to operate, and we are content to leave that to the tribunal that we recommend here be established to go into all of those questions.

Q. So that this compensation on the high-valued goods

for the cheap carriage of the low-valued goods would only start to operate after a certain distance?

A. Quite so, my lord; because up to that distance it can be demonstrated quite conclusively that the truck is a more economical carrier, and I think the railway should be out of that traffic and the truck into it.

Q. That is, about fifty miles?

A. Oh, I think it is much more than that, sir. Our exhibit here indicates that on a cost basis alone the economical truck operation is that of a 13-ton truck operating about 97 miles. Now, there may be and there probably are -- in fact, there undoubtedly are -- conditions inherent in truck operation which would permit us to go beyond that. That is where it serves a need, a real need. I do not think cost alone should be the sole criterion.

Q. Then would you limit the distance to be allotted to the public truck operating for hire to the same distance as that allotted to the man using his own truck?

A. I think they would be practically the same, sir, if not entirely the same.

Q. All right, then.

MR COVERT: Q. Then I take it, Mr. Gaffney, that you are not at all suggesting that the limit should be the mileage as set out at the bottom of page 9?

A. Not at all. We merely use those as a comparison on a cost basis.

Q. Then I suggest to you that they might be quite a bit greater?

A. I would not answer that, when you say quite a bit. They might be some greater.

Q. They might be some greater?

A. Yes.

Q. Then in the case of the private trucker, do you

think that that would really result? If you say that the private trucker is to be limited in the same manner, do you think that that would bring about any favourable results to the railways at all?

A. Oh, very definitely.

Q. Do you think that the private trucker, on the average, exceeds those miles you set out there?

A. Oh, it is very difficult to answer that, Mr. Covert. There are no statistics of private truck operation. I can only give you opinion. On the average I would doubt it. In certain instances, yes; on the average I would have doubts about that.

Q. Now, Mr. Gaffney, the C.P.R. is a member of your Association?

A. Yes.

Q. And I was wondering if you knew what distances, for instance, the trucks of Dench of Canada, which I understand is owned by the C.P.R., what distances they travel?

A. No, I do not; I do not know enough about it.

Q. Have you no idea?

A. Oh, I have a general idea. I think they operate in a general area between Calgary and Edmonton, but I would not want to go too deeply into that; that is something around 270 or 300 miles, I believe; but I do not know their operation intimately at all.

MR SINCLAIR: Based on the record in Alberta, when the Commission was in Alberta, that we had routes from Edmonton through to Cranbrook and Creston, British Columbia.

MR FRAWLEY: Don't call them routes; you just run because you want to run there, that is all.

MR SINCLAIR: Scheduled operation.

MR FRAWLEY: I certainly want to correct the witness as to the distance between Calgary and Edmonton; that

is about 186 miles, not 270 miles.

MR COVERT: There was an exhibit filed with the Commission, I think it was Exhibit 75, which was filed in Toronto, and, while I do not know whether the distances are accurate, Mr. Chairman, it indicated that some of the routes of Dench of Canada went as high as 438 miles, 254 miles, and 179. I wanted to find out if the witness knew---

MR SINCLAIR: 350 miles, approximately, Mr. Covert, from Edmonton to Cranbrook.

MR COVERT: Q. What I wanted to find out was, would you suggest, Mr. Gaffney, that that was an uneconomical distance for these trucks to run?

A. No, I would not, because there is another set of circumstances there. I do not know how it applies in the case of the Canadian Pacific, because, as I said, I am not familiar with their operation, but this is a situation that can occur in a railway: It may be found that by the use of a highway service it is possible to discontinue a train service, and, while the operations of the highway service itself may be at a loss, the economy comes from the discontinued train service, so that if you take off a train between A and B and substitute a truck you would save a lot of money, even though the operations of the truck itself resulted in a loss.

THE CHAIRMAN: Q. Save money to whom?

A. To the railway, sir. Now, what the situation is in the case of the Canadian Pacific, I frankly do not know.

MR COVERT: Q. You do not know what kind of commodities they carry?

A. To the best of my knowledge they are general commodities, but I really do not know.

Q. Well, I don't want to get you in a field that you do not know.

A. I do not know; I am not intimate with that.

Q. You do not know whether or not it was a paying operation?

A. I have no idea.

Q. Then I take it, Mr. Gaffney, there would be, as you suggested this morning -- I think it is an example we have heard a good many times here -- the moving of furniture -- I suppose there are other examples where perhaps trucks are more fitted for the job than railways?

A. I think you could find them, yes.

Q. And in certain things, for instance in a case like moving furniture, perhaps there would be practically no mileage limit?

A. I think that is largely true in the case of furniture.

Q. So the thing would depend on the facts of each case, and your suggestion is that that would be left to a body the type of which you suggest?

A. Quite right.

Q. Now, on page 10, I just wanted to find out how you arrived at that figure in the penultimate paragraph. You say:

"In addition to losses of traffic to the truck it is estimated that at least 50 millions of net revenue is being lost annually by the railways as a direct result of reductions in freight rates to hold other competitive traffic to the rails."

I wondered how you had arrived at that figure of 50 millions?

A. That is a figure calculated by the freight traffic departments of the railways as the difference between what you may term their normal rate and the competitive rate they put in to meet highway competition.

Q. For what year was that calculation made?

A. For the year 1948.

Q. That was after a good many of the competitive rates

had been raised?

A. After some eight or nine months; I think they were April 1st.

THE CHAIRMAN: Pardon me a moment. This year is divided into two periods, is it, before the rates were raised and after the rates were raised?

MR COVERT: Yes.

Q. I just wondered if you thought it would be anything like that after the changes in competitive rates. Do you think it would be 50 million a year, annually, after the changes were made? Do you know if the estimate was based on that?

A. I don't know that I quite follow that.

Q. I understand that a good many of the competitive rates were taken out altogether, a good many were raised, and I just wanted to find out if that calculation of 50 million -- you see, it says "is being lost annually"; now, is that an annual loss based on the present conditions with the rates higher, competitive rates higher?

A. It was based on 1948 conditions, and it would certainly fluctuate with the conditions that you mention, but I think it would fluctuate in a fairly narrow range, at the present level of traffic, which is also a consideration. If our traffic were to fall 50% that figure naturally would fall a great deal, but at the present level of traffic rates we estimate it to be 50 million, but it would certainly fluctuate with a change in competitive rates and a change in volume of traffic.

THE CHAIRMAN: Q. You say at the present level of rates?

A. And traffic, sir.

Q. You put 50 million down as the figure?

A. Yes, sir.

THE CHAIRMAN: That answers your question?

MR COVERT: Yes, except that I just wanted to find---

THE CHAIRMAN: But even with the increases -- you say the present level of rates.

MR COVERT: I wondered how he had arrived at that, in view of the fact that the increase did not come in or the changes in competitive rates were not in effect for the whole of 1948, I just wondered if the 50 million was an accurate figure, for instance, say for 1949.

THE WITNESS: Oh, well, it suffers from the disability that all estimates suffer from; it is by no means accurate. It has no mathematical accuracy, if that is what you mean, Mr. Covert.

MR COVERT: Q. Do you know what the calculations were before the increase in competitive rates?

A. The last figure I saw I think was the year 1939, and at that time the estimate was around 30 millions -- that is my recollection of it -- but that was at a traffic level substantially below what it is today.

Q. Then would you turn to page 11, Mr. Gaffney, and at the very top of the page you say:

"Admittedly in the short haul field the truck is superior in cost and service. In the long haul field, however, both cost and service favor the railway, . . ."

I just wondered if in referring to the short haul field you were referring to the same figure that you used at the bottom of page 9, that is, the economical limits; is that your idea of the short haul?

A. On the basis of cost, yes.

Q. The type of short haul that you refer to there is within those distances, you say?

A. On a cost basis, yes.

(Page 9265 follows)

Q. At the bottom of page 12 you refer to the three cents a ton mile to the truckers, at the bottom of the last paragraph on page 12?

A. Yes.

Q. I just wondered where you have got that figure?

A. Well that figure, I believe, is developed in here based on cost studies made in Canada and the United States, in Canada particularly the one made by the Chevrier Commission in Ontario.

Q. And they arrived at a cost of what?

A. \$4.08 a ton mile and that was in the year 1938 and since that time, of course, costs have substantially increased. Yes, that is developed on page 7, Mr. Covert.

Q. Then you say on page 7 where you point out the Chevrier Commission's finding, you say: "This means that by and large, the traffic diverted from the railway to the truck is that above 3¢."

A. Yes.

Q. And you say that it is probably a great deal higher today but you say the Chevrier^{Commission} found it \$4.08 and it is probably higher today, so you used the figure 4¢ per mile in arriving at that 212 million figure which you used on page 10?

A. Well, perhaps a word of explanation is due there. The \$4.08 that was arrived at by the Chevrier Commission was a combination of two factors. They set up an expense of terminal movement and an expense of line movement, and I believe (and I am speaking from memory now) that that \$4.08 was for a 100 mile haul, and that roughly 2¢ of it was terminal costs. Now if you extend that haul to 200 miles the 2¢ terminal cost is diluted more as you go out, so that at 200 miles you might have a terminal cost of

2¢. That \$4.08 was on that basis.

Q. Now, would you turn to page 13. At the very top of the page you say:

"It is clear therefore that while in general it costs four to five times as much to move traffic by truck as it does by rail, the fact that competition on a rate/^{basis} is possible in the long haul field is due entirely to the nature of the railway rate structure."

I just wanted to find out first how you arrived at the "four to five times"?

A. Well, it is a multiplication of the \$1.02 a ton mile by four which gives you somewhere around 4¢ and 5¢ a ton mile.

Q. I wanted to ask if you thought the result of that simple arithmetical calculation, if that resulted in this being a fairly accurate statement? Does that \$1.02 include all your traffic?

A. Yes.

Q. No matter what the distance?

A. That is correct.

Q. And you are comparing that, for instance - that, I suppose, includes grain and everything?

A. Yes.

Q. I was wondering if it was a fair comparison to compare that with the movement by truck. You say "While in general it costs four to five times as much to move traffic by truck as it does by rail - ". I wondered if you thought that a fair statement?

A. I think it is a fair statement.

Q. Does it really get you anywhere? Shouldn't you be comparing for the same distances and I suggest this does not take into account the same distances at all?

A. No, the average haul on the railway is greater than the average haul on the highway. That is perfectly true but in the case of the highway cost the terminal cost is a much smaller percentage of total cost than is the case of the railway.

Q. I just wanted to develop whether you thought that that statement really meant anything when you said it cost four or five times as much to move traffic by truck as it does by rail?

A. I think it means a very great deal.

Q. For instance, when you say that that applied, that it cost four or five times to move by truck as it did by rail, would that be for a distance of 100 miles or 200 miles?

A. Oh no, we are talking about average traffic in both cases.

Q. Then I just want to take you, Mr. Gaffney, just to the conclusion which you arrived at when you say: "the fact that competition on a rate basis is possible in the long haul field is due entirely to the nature of the railway rate structure"?

A. Yes, you will notice I say "in the long haul field". In that field you get out where costs can be compared to a point where we are much more economic as a carrier than highway transport and our point is that that being so, the thing that comes to your mind is that if you can do something for one cent which costs the other man 3¢ or 4¢ how does he take it from you and our answer is he takes it on account of the rate basis of the railway.

Q. Because the commodity and so on enters into it?

A. Well, the truck handles very little of the basic commodities.

Q. That you must take into account too.

that you not only haul long haul traffic but the basic commodities at lower rates?

A. Mr. Covert, I think you are getting confused between rates and costs. It does not cost any more to haul a carload of diamonds to use an absurdity, than it does a carload of coal if they both weigh the same. One is rated at an absurd rate and the other at a very low rate. It is costs we are talking of now - not rate. We say that we have a cost factor of something around 1.02¢ a ton mile and the highway has 4¢ or 5¢ a ton mile. Now in the long haul field the truck still takes traffic from the railway but he takes it because our rate is higher ^{not because} our cost is higher. That is the point I am trying to make.

Q. What I was trying to find, Mr. Gaffney, and I think perhaps you have clarified it, I just wanted to find out if you thought, if you had compared the two you are comparing the short haul in the case of the truck generally speaking, with a long haul in the case of the railway?

A. Not at all. We have short haul traffic too and long haul traffic.

Q. Your average would be much greater?

A. The average haul on the railway is much greater than on the highway.

Q. I will now take you to the bottom of page 13 where you say: "the problem is to provide equality of opportunity as a result of which the economic field of the competing forms of transport can be determined" and I take it that your suggestion is regulation of trucking. That is your answer to the problem?

A. That is..

Q. And it is the only solution you have to offer?

is it?

A. Oh yes, that is our point.

Q. And you go on to say "only then can each form of transport operate to its maximum efficiency in its own sphere"?

A .. Yes.

Q. And this "sphere" you are talking about is a distance sphere really?

A. It must be, in the final analysis, yes.

Q . And you say that that must be determined by a Board?

A. Yes, that is our suggestion.

Q. And for all types of trucking except farming trucks?

A. And for all types of transportation.

Q. You include in that air?

A. And railway and steamship, oh yes.

THE CHAIRMAN: Would you just tell us in principle why do you exclude farm trucks? Is it because distances are short?

A. The distances are pretty short, sir, and the farmer simply moves his produce to market or his livestock to the packing plant or the stockyard and so on and it is traffic that the farmer is going to keep. He is going to handle it himself regardless of what you or anyone else does in the way of any other method of transportation. It is going to stay with him.

Q. He is hard to subdue.

COMMISSIONER INNIS: You don't think politically there will be any feeling as far as the farmer is concerned?

MR. COVERT: At the bottom of page 14, the last paragraph :

"This Association submits that the adoption of a sound national transportation policy is necessary to a solution. It further submits that an essential element of such a policy should be uniform control of all land transportation - ".

Now that would mean uniform control of the railways and the trucks?

A. The word "uniform" there, perhaps, is not as descriptive as it might be. I do not know just what the word is that I want at the moment.

THE CHAIRMAN: Do you mean "central control"?

A. Not necessarily central, sir, because we contemplate leaving intra provincial trucking in the hands of the provinces. Something along the line of "comparable control", whatever connotation that has. The word "uniform" there is not well chosen.

MR. COVERT: It has been submitted to the Commission that they should be the same. For instance, two associations appeared before us and said that the Railway Act was perfectly satisfactory and in effect the same principle should apply to trucking. I wonder if your Association had the same idea?

A. I do not believe that that would be workable at all.

Q. Now, Mr. Chairman, I did not intend to deal with that last phase of the brief dealing with the allocation of costs.

THE CHAIRMAN: You are talking of what begins on page 15?

MR. COVERT: No, I thought that your lordship had pretty well cleared that up this morning. I think he dealt with his submission as to how it should be done.

THE CHAIRMAN: You are coming down to page 27 now?

MR. COVERT: Yes. And on page 27, I thought I would not bother asking any questions about that except to deal with the very last page of the brief. I did, perhaps want to point out that I think the Duff Commission, as your lordship may remember, did make a recommendation about the share of costs. I thought it would be advisable to point that out. I forget the number of the paragraph; I have in mind it was 127 or something like that.

THE CHAIRMAN: Do you remember the substance of it?

MR. COVERT: Yes, I think they suggested two-thirds.
Yes - 107.

"A fair proportion would, in our opinion, be equivalent to two-thirds of the total cost in respect of highways in the urban areas, whereas in undeveloped districts the proportion should be increased".

THE CHAIRMAN: Two-thirds of those owning trucks for hire?

MR. HUME: All traffic, private cars and private trucks.

MR. COVERT: They went on to say:

"As to the distribution over the various classes of vehicles, it is suggested that the scale of taxation should be so adjusted as to fall heavier upon the long distance hauler".

THE CHAIRMAN: That was back in 1932?

MR. COVERT: That is right.

THE CHAIRMAN: There probably would be a great change both in volume and rate and so on?

MR. COVERT: Yes. I just did want to be clear on the top of page 37. You said:

"This Association accordingly urges that your Commission should recommend that an exhaustive study of highway costs and their allocation among motor vehicles be undertaken to determine the fair and reasonable proportion that should be borne by the various classes of such . . . highway users".

I thought, Mr. Chairman, I would just like to know who should make that study and recommend that an exhaustive study be made?

A. By the provinces.

Q. I did want to be clear that you did not suggest that the Dominion should do it?

A. Not at all.

Q. I wanted to ask too, in dealing with the last paragraph of the brief, you say:

"The Association has no doubt that a continuance of the present situation may well lead to a breakdown of the entire transportation system in Canada".

I want perhaps, Mr. Gaffney, to know if you can indicate why, if the trucking situation is so serious and has been apparently serious since 1931 and 32, why the railways had not gone more extensively into trucking?

A. Well, I am afraid you have missed the point, Mr. Covert, of what I have been saying. What I have been trying to convey to the Commission is that railway transportation is cheaper than truck transportation and there is no point in the railway going into truck transportation holus bolus because all it means is that it would cost us 3, 4 or 5 times as much to perform the service. Now we feel that there is a field for substitution by highway service for rail service in

certain instances but to embark on it willy nilly, certainly not.

Q. I was not suggesting willy nilly at all, Mr. Gaffney. It did occur to me if you arrived at that conclusion you must in the final event be saying that this country must stop to a large extent the use of trucks. Do you go that far?

A. Not to a large extent, no. I don't go that far at all. I am merely saying that we are asking for the determination of the field in which the truck can operate most economically and that it be confined to that field.

Q. Does that involve or do you suggest that that does not involve a lesser use of trucks?

A. Oh yes.

Q. A substantially lesser use?

A. I would not say a substantially lesser use, no.

Q. Well, if it did not involve a substantially lesser use of trucks, do you think that this does much to assist the railway problem?

A. Yes, in view of the tremendous amount of money involved which we estimate at \$212 million. Now if regulation which we are discussing here, had the effect of returning even half of that to the railway the amount of net involved in that, \$106 million, would be very substantial, probably as high as \$70 or \$80 million, and divided among the railways it really means something in our operating revenue. In fact in the case of the Canadian National I suggest that it would probably be sufficient to cover our fixed charges.

MR. FRAWLEY: You have another way of getting rid of that; just scale them down.

MR. COVERT: Now, Mr. Gaffney, has your Association given consideration to the possibility of co-ordination of

the two mediums of transportation perhaps, under the railway whereby, for instance, you might make arrangements in certain circumstances and substitute trucks or buses.

A. Well, that is something the Association as such would not deal with Mr. Covert. It is up to the individual railways.

Q. Do you know whether the railways have considered that matter?

A. Well I can speak for the Canadian National and say certainly. I have made a number of studies for our management, to indicate whether it would pay us to abandon steam rail service on some lines and substitute highway service.

Q. Have you come to any conclusion on that?

A. You cannot generalize. You will find in one case it does pay and in others it does not.

Q. Have there been cases you have submitted to the railway where it would not pay?

A. Yes, we have two before the Board of Transport Commissioners in the Maritime Provinces, One is Newcastle to Logieville and Campbellton to Dalhousie and we had hearings before the Board this past summer. Our proposal was I think substantially the same in each case, to discontinue a passenger train and to substitute a service which we propose to make by contract with a bus operator in the territory. We have not yet had a decision from the Board in that case.

THE CHAIRMAN: Does that apply only to passenger service?

A. In those two instances, yes, but also express and mail. We have one case where we did put in highway service some years ago between Port Arthur, Geraldton and

Longlac. We operate today a trucking service in there and a bus service and that highway operation permitted us to discontinue, I believe it was, a mixed train and a way freight and the saving made it very attractive. We have been operating that - I do not recall the year but it is some years, ten, twelve, or fifteen.

MR. COVERT: Can you tell the Commission are they making studies like this pretty well all over the country?

A. We are, I don't know about the other railways.

Q. Now, were there many recommendations of this nature made by you to the railways?

A. I would say that in the past five years there have been three major ones that I recall and four or five of a minor character but it is constantly under study.

CROSS-EXAMINATION BY MR. HUME

Q. Mr. Gaffney, before I deal with one or two points in your brief, I wanted to see if I understood it correctly by asking you whether or not your Association had approached what you call "the problem" from the standpoint of the buying public, the man who is buying transport, his viewpoint?

A. Well, his viewpoint is a consideration in a national policy, of course, but we approached the problem primarily from the standpoint of the transportation operators.

Q. You mean the steam railways?

A. The steam railways and the truckers.

Q. And in preparing this brief, I am not particularly interested as to the personnel of your committee, but I wanted to know if by any chance there was anybody on that

Committee who was connected with any of the trucking operations of your members, somebody experienced in the trucking industry?

A. I don't know how to answer that. There are two members of the Committee connected with our Express Department who operate very substantial truck service probably included, but I cannot say what their knowledge of truck operation is.

Q. Then, can you tell me perhaps among the members of your Association how many trucks they operate in over-the-highway movement?

A. No, I can't answer that; I don't know.

Q. I would like to get your opinion on this but before I ask you a question or two on the brief on the regulations that you speak of, that are in existence, in connection with the steam railways, do these precede the adaptation of an internal combustion engine to a truck?

A. To a large extent I think there have been modifications since that time.

THE CHAIRMAN: On that other question of yours, do I understand that the trucking bodies that form part of your Association are trucks owned by the railways only?

MR. HUME: My question was only to find out whether first of all, Mr. Chairman, to find out whether on this committee there was anyone in the railways who was responsible for their trucking operations.

THE CHAIRMAN: That is, the railways trucking operations?

MR. HUME: Yes, but I was referring to over-the-highway movement.

THE CHAIRMAN: Yes, of the railways?

MR. HUME: That is correct, yes. You have not any

members of your Association that are not steam railway?

A. Not that I am aware of.

Q. You have some electric railways?

A. I am not sure of that. Mr. Brass could tell you that.

Q. Is that point cleared up, Mr. Chairman?

THE CHAIRMAN: Yes, it is.

MR. HUME: I was talking about the regulations. You have confirmed what I believed, that most of these substantial regulations I am speaking of were in existence say, prior to 1914 when the truck made its appearance?

A. Yes, I think they largely came in with the Railway Act, I believe 1904, somewhere in that area.

Q. And I suggest to you that the reasons for the enactment of those regulations were by reason of the fact that the steam railways were the sellers of transportation over any considerable distance in the country?

A. Well, when you say "regulations" do you mean rate regulation?

A. That too, yes.

Q. Rate regulations certainly, and I think probably the others as well. Would not that be a fair statement?

A. There was, of course, some water competition?

Q. There was some water competition on goods but substantially the sellers of inland transportation were the railways from say 1910?

A. I think that is true.

Q. And the person who was buying that transportation, be it person or goods, was forced to go to the railways of which there were a number in Canada?

A. I suggest to you that he was glad to go to the railways of which there were a number in Canada.

Q. That might very well have been but we have somewhat of a change, have we not, Mr. Gaffney, with the invention of the internal combustion engine?

A. Yes, that is what we are discussing here.

Q. And for the first time, the buyer of transportation could provide his own transportation?

A. Not at all. In the old days he could do it by team if he so desired and it was done by team. We had express service over the highways long before the motor vehicles.

Q. But not for any distance, surely?

A. I don't know sir. We had the Wells Fargo Express operating almost half the width of the United States. That is one example.

Q. Yes, you could carry some limited goods on horseback or in a cart, but I am speaking in terms of recent development of the truck where a man could purchase his own substantial form of transportation and move goods for fairly long distances?

A. That is a fairly recent development, yes.

Q. And with the development of the motor vehicle and its adaptation to the movement of freight, the public could go out and buy their own form of transportation and if they wanted to they need never go near what was known as the "Established form"?

A. In certain instances, yes - only in certain instances.

Q. Well I am suggesting that because it is my understanding, and you will correct me in that if I am wrong, that storage was a factor in business methods?

A. I think that is quite true.

Q. In other words, the merchant for the first time could carry a very low income inventory as compared to the old days when if he was buying, he had to buy by

carload lots?

A. Yes, I think that is true.

Q. Would you agree with me that by buying without a large inventory he could do it by this other form of transportation?

A. I think that is true.

Q. And he saved himself certain money in connection with credit - correct?

A. That is a possibility.

Q. Now then, he could also disperse his manufacturing processes for the first time?

A. I suggest that is quite incorrect when you say "For the first time". There was never a time when he could not disperse the manufacturing processes. I suggest it was facilitated by the advent of the truck but not initiated.

Q. Are you suggesting seriously that the situation that I think you are probably aware of in connection with the General Motors where part of their assembly line is in St. Catharines and the rest in Oshawa, do you think it would have been possible to have that situation without the truck?

A. Of course it would - quite possible by rail.

Q. Well why aren't the goods from the McKinnon Industries in St. Catharines being shipped by rail to Oshawa?

A. I think the rate is the answer to that.

Q. Do you know what the rate is?

A. No, I don't - the specific rate.

Q. Have you any way of finding out for me what the comparative rate is on the rail shipment?

A. I would be glad to get it if it is of any value to you.

Q. Because my instruction or understanding of the matter is that it was attempted by rail but it tied up the assembly line process in Oshawa and they had to go back to their trucks?

A. Through delays?

Q. That partly, and the fact that cars could not be just there when they were needed and so on. I don't think there was any criticism of the railroad but just by reason of the mechanics of it it would not work except by truck.

A. Do you wish the rate on these products? We will be glad to get it for you if that is of any value.

Q. You suggested the rate was an angle and I am suggesting there was no angle and if it is possible to find out, and then if I am wrong I would like to know because I think it ought to be entered on the record?

A. We will make a note to get the rate.

Q. It is true that if rate was the answer you could put in a competitive rate on that movement?

A. We could?

Q. Yes.

A. Oh yes.

Q. So that the rate is not altogether the answer as to the movement?

A. Probably not; I suggested to you that rate was part of the answer.

Q. Now you will agree with me that the motor truck has made possible a different type of manufacture where parts are manufactured in different parts of the country and assembled in one central point for assembly?

A. I think that is true.

Q. And that has been speeded up by the advent of the motor vehicle?

A. I think generally that would be true.

Q. Then, will you agree with me that sometimes ^{as} far/the buyer of transportation is concerned that he could use less crating and packaging in connection with his shipment?

A. I think that is true.

Q. And that the manufacturer of a given article is saving the cost of crating and packing and is therefore being able to cut his manufactured cost and is being able to sell his product at a little less money?

A. That I would not agree with. I will agree with the first part that he has cut his manufacturing costs but I have serious doubts that that saving is passed on to the public.

Q. But in any event there is a saving?

A. Oh, somewhere.

Q. And if it is to the manufacturer he is the one that is buying the transportation?

A. That is right.

Q. And if he could save money by saving crating, he is going to buy transportation that will save him that money?

A. Not in all cases. There are other things entering into it than saving money. I would suggest he does it in a good many cases but not in all cases.

Q. If that saving is not passed on and the manufacturer is keeping it, probably then that is one reason why he is buying a form of transportation where he does not have to do that crating?

A. I think the answer is that the railways will continue to get great quantities of this traffic you speak of and if your submission be right we would not have them, but we do have them.

Q. Then isn't it true that the public who are buying this transportation by truck can generally get speedier transit than by rail?

A. I do not agree with that statement at all when you add the word "generally". I would say in specific instances they could but generally, no.

Q. Were you by any chance here when a brief was read from the Chamber of Commerce of the City of Quebec?

A. I think I was here that day.

Q. And do you recall at the end of that brief they said that because of the slowness of the rail service that over 75% of the wholesale merchants were turning to more expensive truck transportation?

A. I recall the statement. I also recall there was nothing put in evidence to support it.

Q. And do you recall that Mr. Poisson was called as a witness and was asked by me how long it took for their movement from the City of Toronto to Quebec City and that his answer was 12 to 14 days?

A. I heard the statement and I might just as well clear that point now. The scheduled service of the railway between Quebec and Toronto - if a shipment was loaded in Quebec on a Monday, it would be in Montreal on Tuesday morning, leave Montreal Tuesday night and be in Toronto on Wednesday morning. Now I am not suggesting to you that every shipment gets that type of handling but that is the schedule of the railway and a very large percentage of the shipments certainly do get it.

Q. Then why would the merchants there use this more expensive truck transportation?

A. I do not know whether it is more expensive or not. I don't know what the rates ^{are} /in there, Mr. Hume.

Q. Then, will you agree on this point, that to the

buying public it cost much less?

A. I agree, yes. To the individual who buys a specific transportation service, yes, but to the people of Canada it costs much more and they are buying transportation.

Q. Now you will perhaps agree with me that the people of Canada who are buying transportation, are using trucks more and more. Your table in your appendix shows the tremendous increase in truck registration?

A. That is true.

Q. And it must be because the people in Canada want to use these increasing number of trucks?

A. I think so.

Q. And in fact I think you told my friend, Mr. Covert, that in the United States where interstate transportation is regulated that the United States experience was that the businesses went out and leased these trucks in order to get around some phase of the regulation?

A. Yes.

Q. In other words, will you agree with me that there is an increasing tendency on the part of Canadians and Americans to turn to the use of trucks?

A. There is an increasing volume of truck movement but I am not so sure that there is an increasing percentage of the total traffic moved in Canada.

Q. Well, there are more and more trucks carrying there?

A. Oh yes, That is true, but there are more and more people and we are doing more and more business and I am not sure without checking that that volume of truck traffic is increasing.

THE CHAIRMAN: What about the volume of railway

traffic?

A. It has been increasing, sir, all through the war, as I think you are well aware, and on a tonnage basis is holding up fairly well. I think it is now 7% below what it was in the war years.

MR. HUME: Well, if that percentage is holding up, why do you conclude your statement by saying there is going to be an entire breakdown of the transportation system unless you control these trucks and so on?

A. I would have to take you to the statement in the brief that the trucks had roughly 8% of the work and got twenty-three per cent of the revenue.

(page 9290 follows)

Q. Well, I would like to just discuss that point with you now, if I may. Turning first of all, if you will, Mr. Gaffney, to page 6, where I think these calculations start---

A. Yes.

Q. And referring to the middle of that first paragraph, you develop that in your estimate there are 489,000 trucks?

A. Yes.

Q. Excluding ambulances, hearses and various municipal vehicles?

A. Yes.

Q. Then I think in answer to a question from Dr. Angus on page 7 with regard to that table, you gave ton miles of work of 5,304,750,000 over the road by these 489,000 trucks?

A. Oh, not at all, not at all.

Q. Well, what percentage, then? You do not show, you see, between your 489,000 figure, you do not show how many trucks you have figured are engaged in carrying this 8.25% of the work?

A. In calculating the over-the-road movement, as I had to explain this morning, we had to disregard those vehicles that range in load capacity from about a quarter ton to three tons. The remainder we considered to be over-the-road trucks, and we attempted to measure their movement. My recollection at the moment is that there are some 62,000 vehicles included in that estimate.

THE CHAIRMAN: Q. Included, doing what?

A. Over-the-road trucking, sir, both commercial and private.

Q. Only 62,000 out of 489,000?

A. Yes, sir.

MR FRAWLEY: Q. You exclude the 3-ton trucks?

A. Everything up to 3 tons.

MR HUME: Q. Are there not a lot of 3-ton trucks in over-the-road movement by private owners?

A. Well, we have had 3-ton trucks included -- up to 3 tons, Mr. Hume.

Q. By your reference to the 3-ton truck, do you mean that that is the capacity that that truck can carry?

A. Yes.

MR O'DONNELL: Q. Registered as such, isn't it?

A. Not necessarily. Within the framework of the provinces I believe there are different methods. One licenses on registered capacity, another one on pay load capacity, and so on. In this instance we are talking about a truck that can carry a load of 3 tons of freight.

MR HUME: Q. Now, I would like to carry this through---

THE CHAIRMAN: Q. You disregard all those of less?

A. Below that, sir, yes, less than that.

Q. In disregarding them, what do you say about their competitive value?

A. We say that they are trucks performing by and large terminal movement.

Q. You do not consider them as competitors?

A. As competitors, sir.

MR HUME: Q. I presume that in your figure of 62,000 you are including tractor-trailers and all the---

A. Oh, yes.

Q. Truck -- it is a general term used?

A. That is right, yes.

Q. I would like to carry that along, then. Do I understand you correctly, that 62,000 trucks are performing this figure of 5 billion odd ton miles?

A. That is our estimate.

Q. And then on page 23 you make the statement about

the difference between the commercial operator and the private carrier, and I just want to refer to it; this is on page 23, in the last paragraph, about the second sentence:

"Reference is made to the increasing volume of traffic moving over the highways in privately owned trucks, and which now forms a large percentage of the total volume."

Now, what percentage of the 5 billion odd figure is performed by the privately owned truck?

THE CHAIRMAN: Where is that, Mr. Hume?

MR HUME: The reference in the brief, Mr. Chairman, occurs on page 23, in the last paragraph, commencing with the second sentence of that paragraph:

"Reference is made to the increasing volume of traffic moving over the highways in privately owned trucks, and which now forms a large percentage of the total volume."

Mr. Gaffney has told us that in their opinion the total volume is this figure on page 7, and that it is performed by his estimate of 62,000 trucks. I want to know from him if he can tell me what percentage this large volume of private movement -- what is the percentage of this private movement.

THE WITNESS: As best we can estimate it -- and it is pure estimate -- it runs around 50%, but there are no complete statistics in all of the provinces of Canada to enable us to determine what vehicles are for hire and what are private. In the Maritime Provinces, I believe in Nova Scotia and in Prince Edward Island you just can't find out anything about them, in Nova Scotia it is difficult, and in some of the others -- I just cannot go through the whole list, but we were unable, anyway, to establish with any accuracy a division between private and for-hire vehicles.

Q. And I suppose you will agree with me that of the 62,000 trucks of which you speak, without actually going to each individual operator it is difficult to tell whether they are competitive with the railway or whether they are not?

A. Oh, I would not say that, I would not say that at all. I think it is a very fair supposition that over-the-road vehicles are competitive with the railways.

Q. Well, is it not true that some of these vehicles are going over the road and servicing municipalities that only have a train service say once or twice a week?

A. Oh, yes, but it is still competitive with the railway.

Q. Well, is it competitive on the days when the railways are not running?

A. Of course.

Q. And are not some of these vehicles going to communities where the rail does not service it at all?

A. I think that is true, but to what extent I do not know, to be frank; I think it is true.

Q. And are not some of these vehicles moving over the road say collecting fluid milk to be taken into urban centres, past farms that are not on rail lines?

A. Oh, I think probably the majority of that business is done by what we term the small vehicle, up to 3 tons.

Q. Well, do you know that to be a fact?

A. Oh, I don't want you to pin me down to say that there is not any---

Q. You assume that, in other words, in these things?

A. Yes.

Q. And if it is otherwise--

A. And there would be some of 3 tons and up; I cannot tell you with mathematical accuracy; there is no way of

finding it out.

Q. Then let me carry you forward. You have got 50% of this 5 billion figure performed by privately owned trucks, and the other 50% are people operating trucking lines for compensation?

A. That is our estimate.

Q. Now turning over to the bottom of page 7, you arrive at a figure, at 4 cents per ton mile, of \$212,000,000 per annum?

A. Yes.

Q. Will you explain to me how the private owner carrying goods in his own truck is taking any revenue from you?

A. We have not said so, sir.

Q. Well, I think you have. You have taken the total of 5 billion; that includes 50% of those as privately-owned trucks?

A. Right.

Q. You multiply that by your figure of 4 cents a ton mile, and you show a figure of \$212,000,000?

A. That is right.

Q. Then over at the top of page 8 you show a table showing for 1948 the freight revenue for over-the-road trucks is this \$212,000,000 figure, so therefore you must have included the privately-owned trucks, haven't you?

A. I am afraid you have completely misunderstood the paragraph. I will read it to you, Mr. Hume.

Q. I would like to understand it.

A. "This means that, by and large, the traffic diverted from the railway" --

and please note "diverted from the railway" --

"to the truck is that above 3c." On the
And the estimates that follow are estimates of the traffic

diverted from the railway to the truck, whether that be the private truck or the commercial truck.

Q. So that in the paragraph immediately following the table on page 8, which says, paraphrasing it, that the trucks performed 8.25% of the work and obtained 23% of the revenue, you do not mean that the operators of trucks actually got that revenue in their pocket?

A. Oh, no; we are talking of revenue diverted from the railway, sir.

Q. I see.

THE CHAIRMAN: Q. Perhaps it is the language that led to the misunderstanding. You say the trucks performed $8\frac{1}{4}\%$ of the work and obtained $23\frac{1}{3}\%$ of the net transport revenue?

A. Yes, sir. In the case of the commercial truck they obtained that directly; in the case of the private truck they obtained it the same way, by avoiding the transport cost to another carrier.

Q. And in both cases they combine to divert so much from the railway?

A. Quite so, sir.

MR HUME: Q. So that it is perfectly clear that that figure does not mean that the commercial for-hire trucker is earning 23.3% of the revenue; I understand now.

A. It is a total of them all.

THE CHAIRMAN: Well, he is earning about half.

THE WITNESS: About half, we estimate.

MR HUME: According to the estimate, Mr. Chairman, he is earning about half of it.

Q. Well, I understand that; thank you, Mr. Gaffney. Now may I refer back to one or two things in connection with the brief. There was one point in connection with the difference between the commercial vehicle and the private

trucker that you did not mention. Is it not true that the commercial trucker can operate more cheaply than the private individual carrying his own goods, in this sense, that the commercial trucker may go from point A to point B with a load and come back from point B to point A with a load, whereas the private manufacturer who delivers his goods from point A to point B comes back empty?

A. There is a good deal in that, Mr. Hume, but I do not think I could generalize on it. Let me give you the other side of the picture. The private individual can use his truck in collection and delivery service in a city all day long, and at night send it out on the highway two or three hundred miles, and he gets use out of it, and the test of cost is the use that you get out of the vehicle for the price you pay. Now, it is perfectly true that a commercial trucker, I think, on the average will make more use of his vehicle than will the private operator; I think that is true, but I do not think you can generalize and say that it would be so in every case.

Q. I am suggesting it only because it may be one of the reasons why the member of the public we have been talking about -- the buyer of transportation, let us call him -- uses the commercial truck rather than buying his own fleet?

A. It may be one of the reasons, yes, that is quite true.

Q. And would you agree that it might follow that, having become accustomed to the service and other qualities of the truck in connection with door-to-door delivery and no crating and so on, if you eliminated the commercial truck he might go out then and buy his own truck?

A. That is a possibility; but I think the test in most cases is the cost.

Q. I suggest to you -- I do not suggest this to you;

I am trying to understand. Is it because of that fear that the person will buy his own truck that you go on in your brief to suggest that even the private trucks have to be controlled in some way to limit their movement?

A. Oh, that is quite right.

Q. Your suggestion goes a little further, I think, than anything else we have heard here today, and I just wanted to understand. Are you suggesting that the T. Eaton Company, for example, or anybody who has a fleet of trucks moving their own merchandise in over-the-road movement would have to be told, "You can only take it so far and no farther"?

A. I did not suggest that. I suggested that private truckers -- which would include the T. Eaton Company, the case you mention -- would have to be fitted into a national transportation pattern, but whether that was being told that you can go so far and no farther -- we are not suggesting that. We are, as I said before, quite content to stand by a decision rendered by a competent tribunal that will look into the whole situation impartially.

Q. So if that tribunal decided that the limit would be, to be ridiculous, five thousand miles, that would not solve any problem as far as you are concerned, would it, if they said there is practically no limit on what the private trucker may do?

A. I would say we should take our medicine.

Q. In other words, in order to be effective, in order for your suggestion to mean anything, you have got to put some limitation on the private individual in moving his own goods?

A. To be effective it must take into consideration all the factors in transportation, evaluate them and come to a decision as to the field of each operator, the economic sphere of each operator, and then take measures to see that

each operates in that field.

Q. Does your Association seriously suggest, Mr. Gaffney, that the people of Canada would go for a thing like that?

A. Mr. Hume, we would not be suggesting that if we did not feel that it was economically sound.

Q. That may be; it may be economically sound in your opinion, but what I am asking you is -- because, after all, these things are determined by public opinion -- does your Association suggest that the Canadian public would be content with restrictions of this kind on the movement of their own goods in their own trucks?

A. It would be utterly impossible to answer a question like that, Mr. Hume. I have not talked to every member of the Canadian public; I do not know what they think or what they would think.

THE CHAIRMAN: Q. Is it so that you estimate that if what you think ought to be done is done there would be about \$106 million per annum more to the railways?

A. That is correct, sir.

Q. That is, if both the private truck and the truck for hire were put within what you call their sphere?

A. That is correct, sir.

Q. Which is a mileage sphere?

A. I think it would ultimately have to work itself into that, sir.

MR HUME: Q. Perhaps you will agree with me, Mr. Gaffney, that the expense of moving a person's own goods over distances -- there is a point beyond which it would cost too much money, and therefore it will not be done?

A. Do you mean by highway, Mr. Hume?

Q. I am speaking of the private owner again; I am back to that.

A. Oh, I think that is quite true. I would think that the private operator will only operate his vehicle, whether in competition with the railway or the common carrier, as long as it pays him to do it; I am sure of that. That payment may be in dollars and cents or in convenience, or a combination of the two.

Q. You are putting the whole thing, the use of the motor vehicle, on the question of cost?

A. Oh, no. I thought I had made that very clear, that we have set up here a graph on which we have drawn certain curves indicating truck cost and railway cost, and we say that on a cost comparison basis those are the economic limits, but I tried to explain quite clearly this morning, I thought, that there would be circumstances where the truck would go beyond those because of a facility and ease in movement, a convenience or whatever you may wish to call it, that would make it advisable that he be permitted to do so.

Q. But basically the question of who uses the truck and who does not, as I understand you -- and if I am incorrect you will correct me, I know -- is the question, how much does it cost the shipper to move his goods?

A. I say that is one of the factors, Mr. Hume, but I would not go along with you that it should be the sole criterion.

Q. No, but I thought you said to Mr. Covert that that was the determining factor in the selection by a shipper as to whether he is going to use this method or that method?

A. Oh, I think that is largely true.

Q. Now, on page 4 of your briefs, in the first paragraph, about two-thirds of the way down, you say, reading from the beginning of the sentence:

"Relative costs of service might at first glance be considered the controlling factor in determining which of competitive transportation facilities would be used, but quite frequently the value of service rather than the cost will be found to be the controlling factor, especially if any difference in speed or other collateral advantage exists."

That sentence would seem to be a little bit at variance with what you have just said, that you indicate that frequently it is the value of the service to the shipper and not the cost that makes him decide what he is going to do?

A. Mr. Hume, I thought I had just got through saying the same thing in other words, that cost is not in our opinion the sole criterion, and that there are other circumstances such as convenience and flexibility that should be added to cost in determining the economic sphere of the motor vehicle, and if that paragraph is not the same thing, I am sorry, but I completely misunderstand it if it is not. It certainly is the same thing to me.

MR HUME: Mr. Chairman, it is four-thirty.

THE CHAIRMAN: Yes. It has been agreed that we adjourn on Friday at four-thirty, so we will come back on Monday morning.

--At 4:30 p.m. the Commission adjourned until 10:30 a.m., Monday, November 21, 1949.

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